

**EXAMINING EPA'S AGENDA: PROTECTING THE
ENVIRONMENT AND ALLOWING AMERICA'S
ECONOMY TO GROW**

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

AUGUST 1, 2018

Printed for the use of the Committee on Environment and Public Works



Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

34-874 PDF

WASHINGTON : 2019

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

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EXAMINING EPA'S AGENDA: PROTECTING THE ENVIRONMENT AND ALLOWING AMERICA'S ECONOMY TO GROW

WEDNESDAY, AUGUST 1, 2018

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10:24 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Rounds, Ernst, Sullivan, Cardin, Whitehouse, Merkley, Gillibrand, Booker, Markey, Duckworth, and Van Hollen.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Before we begin today's hearing, I want to thank Acting EPA Administrator Andrew Wheeler for making it a priority to come to testify before the Committee today. I have been very impressed with how he has started his tenure as head of the Agency.

As Acting Administrator, Mr. Wheeler has emphasized transparency, while implementing policies that protect the environment and allow America's economy to grow.

I would encourage President Trump to nominate Andrew Wheeler to be Administrator of the Environmental Protection Agency. Mr. Wheeler is very qualified for that position. He spent over 25 years working in environmental policy, and in that time he has served as a career employee at the Agency, as a staffer here on Capitol Hill, as a consultant in the private sector, and now in a leadership role of the EPA.

I believe Andrew Wheeler would make an excellent administrator of the Environmental Protection Agency.

With that, I call this hearing to order.

Today, the Committee will hear testimony on the Environmental Protection Agency's work to protect the water we drink, the air we breathe, and the communities we call home. It is my pleasure to welcome back to the Committee Andrew Wheeler in his new role as Acting Administrator of the EPA.

First, Mr. Wheeler, as you know, the way that this Committee works, sometimes there are roll call votes. I understand there are five roll call votes starting at 11 this morning, so there will be

members coming and going during the hearing process, so I appreciate your indulgence as we come in and out.

Mr. Wheeler has served on this Committee in a number of capacities, most recently as Staff Director. It is only fitting that our Committee be the first that you testify before in your new role.

Since President Trump has come to office, his Administration has made it a priority to pursue policies that both protect the Nation's environment and allow the economy to grow. Just last week, we saw how the Administration's pro-growth and pro-jobs policies are leading to incredible economic growth. America's economy grew at an impressive 4.1 percent.

Over the past year and a half, the Environmental Protection Agency has been busy rolling back punishing regulations that hurt the economy in my home State of Wyoming and communities across the country.

Under the previous Administration, the Agency created broad and legally questionable regulation that punished the very communities EPA claimed to be protecting. The so-called Clean Power Plan would have cost Wyoming energy workers their jobs and closed power plants across the country. The Obama administration openly declared war on American coal and the workers who produce this critically important resource.

The so-called Clean Power Plan wasn't just bad policy; it was illegal. Twenty-four States—including Wyoming—filed suit to block this regulation. The Supreme Court has put the rule on hold because of the challenges.

Under the leadership of President Trump, the EPA is now taking steps to undo this damaging rule. The Agency held listening sessions in several different communities to hear feedback on how the regulation should be changed or withdrawn.

One of those listening sessions took place in Campbell County, Wyoming, in the city of Gillette. Wyoming is the leading coal producing State in the Nation. The vast majority of the coal from the Nation comes from Campbell County. America can't afford to leave its energy resources stranded in the ground.

I am thankful the EPA took the time to listen to all stakeholders and reexamined the Agency's deeply flawed rule. It was an important example of Washington listening to the people of Wyoming.

The Administration has also taken major steps to revise the Waters of the United States, or the WOTUS, rule. This outrageous Obama era rule would have put backyard ponds, puddles, and farm fields under Washington's control. Under that rule, the EPA told farmers and ranchers their irrigation ditches were considered navigable waters and would be regulated by the Federal Government.

The consequences were staggering. The EPA threatened to fine one private landowner in Wyoming \$75,000 a day. The crime he committed was digging a stock pond in his backyard.

This past January, the EPA delayed the implementation date of this devastating rule. This delay gives the Agency time to revise it.

EPA should not punish our ranchers or farmers for managing their land. It must replace the WOTUS rule with common sense policy that protects America's waters and respects States and local authorities.

The Agency has also taken important steps to protect small refineries in Wyoming and across the country. I applaud the Trump administration for rejecting efforts to undermine the ability of small refineries to obtain hardship relief under the Renewable Fuel Standards, or the RFS.

During the Obama administration, EPA frequently ignored the law, which requires EPA to grant relief to small refineries suffering economic hardship under RFS. Since then, two Federal appeals courts have rebuked the Agency for decisions denying hardship relief to small refineries.

EPA must not take any action that would limit the ability of small refineries to obtain hardship relief, restrict when small refineries can apply for hardship relief, disclose the confidential business information of small refineries, or increase the burdens on other refineries. Taking any of these steps would only compound the problems that this broken program has created for American refineries and their workers.

I look forward to hearing more about what the Agency is doing to protect the people of Wyoming and America, to keep our environment clean, and to support the Nation's growing economy.

Acting Administrator Wheeler, thank you for taking the time to come testify today. Thank you for making the Senate Environment and Public Works Committee your first stop on Capitol Hill.

I would now like to turn to Ranking Member Carper for his remarks.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thank you very much, Mr. Chairman.

As my colleagues know on this Committee and outside of the Committee, I have been asking for an oversight hearing with the EPA Administrator for many months, and I am pleased that our Committee is holding that hearing today. I have to be honest with you, I am even more pleased that the person sitting at the witness table is our Acting Administrator and not his predecessor.

When Mr. Wheeler took the helm of this Agency, all 25 days ago—it probably seems like 25 months ago—the Washington Post noted that we were trading an Administrator who is known for “sipping organic juice infused with kale” for an Acting Administrator who collects Coca-Cola memorabilia.

With that said, Mr. Wheeler, I have something to present to you today, as we begin this hearing, to add to your collection, something that my staff found for sale in, of all places, the Senate cafeteria. I thought you might like to have it. It is a bottle of Coca-Cola that actually has the word “Wheeler” on it.

[Laughter.]

Senator CARPER. I don't know if you have some special deal, something in your life we don't know about, Andrew. This is very interesting, but this is your bottle. You will probably need something stronger before you are finished.

[Laughter.]

Senator CARPER. But I am encouraged that there will be a number of differences between Mr. Wheeler and Mr. Pruitt in the way that they approach this important leadership role. For example, I

don't expect to hear as much as a peep from Mr. Wheeler today about used mattress shopping or Chick-fil-A or fancy moisturizers.

What we do need to hear from Mr. Wheeler today is how he plans to differentiate himself from Mr. Pruitt across a range of environmental policies that are far more consequential; how we repair the significant damage that Mr. Pruitt has done to the EPA. Will the American public once again be able to trust the EPA to carry out its mission of protecting public health and our environment?

Now, I believe in giving credit where credit is due. In the few weeks that Mr. Wheeler has been the Acting Administrator, he has published his calendars on a daily basis. He has opened up EPA events to the media, as well as began to work to ensure that EPA's beleaguered career staff once again feel valued, respected, and included. He withdrew Mr. Pruitt's parting act to stop enforcing air emission standards for some of the dirtiest heavy duty trucks on the road under the Clean Air Act, granting one company permission to continue building high polluting glider trucks for 2 years. Thank you for that.

There is a whole lot to be done. Mr. Wheeler has told me repeatedly that he shares my goal of striking a deal between automakers and the State of California and other States on fuel economy and greenhouse gas tailpipe standards. Unfortunately, the Administration's proposal could not be further from the win-win outcome that many of us on this Committee and outside this Committee believe is within reach.

Instead of providing near term flexibility and predictability for the auto industry in exchange for more rigorous standards and clean vehicle incentives going forward, the Trump administration is proposing to free standards for 7 straight model years. We can do better than that, and we need to.

The Administration would remove all credits for air conditioning and other improvements and argue that California should be preempted. Such a proposal is not the win-win outcome that stakeholders are asking for, one that keeps the American auto industry competitive, creates more good paying jobs right here at home, and protects our environment well into the future.

Instead, this Administration has, once again, ignored common sense, turned its back on a solution that would allow for States like California to enforce its own clean standards, and decided to listen to the most extreme voices as it pushes through a plan no one is interested in.

Mr. Pruitt's EPA also had a warped sense of cooperative federalism, especially when it came to protecting downwind States from harmful air pollution. Under Mr. Pruitt, EPA failed to meet the deadlines to designate who was living in unhealthy ozone areas and delayed emission reductions critical to downwind States.

At the same time, Mr. Pruitt's EPA rejected requests from downwind States to require upwind polluters to install or operate existing pollution controls, tried to cut State air program funding, and weakened enforcement efforts. All of these actions were a disaster for the people, like those in my own home State of Delaware, and States like Maryland, New Jersey, New York, Rhode Island, Mas-

sachusetts, and others on the East Coast who live at the end of what we call America's tailpipe.

Instead of prioritizing and protecting the polluters, I hope Mr. Wheeler will prioritize and protect the people who are being harmed from those emissions. Under Mr. Pruitt, EPA has also acted to roll back clean water protections by, I think, dishonestly inflating the costs of those rules to industry, while minimizing the health and environmental benefits to the public.

Mr. Wheeler needs to describe how he plans to ensure that clean water and other rules are based on credible data, how they comply with the law.

Mr. Pruitt misguidedly banned any scientist who had received EPA grant funding from serving on EPA's scientific advisory committees. He proposed to have EPA ignore and not consider some of the best scientific studies in the world. It is my sincere hope that Mr. Wheeler will share with us his plans for ending EPA's war on science.

Disappointedly, too, there is probably no aspect of EPA's implementation of the new Toxic Substances Control Act that will not be litigated. Mr. Pruitt's EPA chose to blatantly disregard the clear and unambiguous law that we largely wrote right here in this Committee and Congress passed with near unanimous support. This kind of blatant disregard for the rule of law needs to end, and it needs to end here.

Mr. Wheeler needs to describe how he plans to stop wasting taxpayer funds and EPA's lawyers' time defending proposals that are clearly illegal, and restore the Agency to one that respects the rule of law and is guided by science.

The day after Mr. Pruitt resigned, I sent Mr. Wheeler a letter. I told him, "You have been granted an enormous challenge and responsibility, but an even greater opportunity. The damage that Scott Pruitt has done to this Agency will not be easily undone. While you and I have not always agreed—and will not always agree—on every environmental policy matter, it is my hope and expectation that you will carefully consider the lessons of the past as you prepare to chart the Agency's future." We look forward to a continued dialog and to today's hearing.

Welcome.

Senator BARRASSO. Thank you so much, Senator Carper.

We will now hear from our witness in a few seconds, and that is Hon. Andrew Wheeler, the Acting Administrator of the U.S. Environmental Protection Agency.

I want to remind Mr. Wheeler that your full written testimony will be made part of the official hearing record, so please keep your comments and your statement to about 5 minutes so we will have time for questions from the members of the Committee.

I look forward to hearing your testimony.

Mr. Wheeler.

STATEMENT OF HON. ANDREW WHEELER, ACTING ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. WHEELER. Good morning, Mr. Chairman, Ranking Member Carper, and members of the Committee.

When Chairman Barrasso called me to ask me if this would be my first hearing, I jumped at the opportunity because I couldn't think of another Committee that I would want to testify in front of first.

When President Trump appointed me Acting Administrator, he asked me to focus on three things: clean up the air, clean up the water, and provide regulatory relief to help the economy thrive and create more jobs for American workers. I believe we can accomplish all three at the same time. In fact, we have already made progress on all three fronts in just the past few weeks. We haven't slowed down, and we haven't missed a step.

Yesterday, we released EPA's annual report on air quality, and we have great news to share. From 1970 to 2017 the combined emissions of the six key pollutants regulated under the NAAQS dropped by 73 percent, while the U.S. economy grew more than 260 percent. This is a remarkable achievement that should be recognized and celebrated. The U.S. leads the world in terms of clean air and air quality progress.

On my first day as Acting Administrator we sent to OMB for interagency review a proposed rule to set State guidelines for greenhouse gas emissions from power plants.

We recently finalized the first set of revisions to the 2015 regulations for the disposal of coal ash. These actions will provide States and utilities much needed flexibility in the management of their waste.

Last week, we issued a final rule that codifies the animal waste reporting exemptions which were signed into law in the Fair Agricultural Reporting Method, the FARM Act, Senator Fischer's legislation. We also approved pathways for biodiesel derived from sorghum. This action lays the groundwork for more homegrown fuels under the Renewable Fuels Standard and adds diversity to the Nation's biofuels mix.

Finally, we recently commemorated the 1-year anniversary of the Superfund Task Force Report and highlighted the extraordinary progress we have made cleaning up sites and returning them for productive use.

Just this week, we reached a framework to address the outstanding issues of the Anaconda Smelter site in Montana. This framework will allow us to meet our goal of delisting the site by 2025, and this site has been on the list for decades.

As you can see, we are continuing the President's agenda post-haste. The combination of regulatory relief and the President's historic tax cuts continues to spur economic growth across the country, particularly in communities that were previously—and wrongly—ignored or forgotten.

One way we can fulfill the President's agenda is providing more certainty to the American people. A lack of certainty from EPA hinders the environmental protections and creates paralysis in the marketplace. We will prioritize certainty in three areas: certainty to the States and local governments, including Tribes; certainty within EPA programs, such as permitting and enforcement actions; and certainty in risk communication.

First, we need to provide more certainty to the States, who are the primary implementers and enforcers of many of our environ-

mental laws and programs. We will work closely with the States to ensure our mutual responsibilities under the law are fulfilled.

Second, we need to provide more certainty within EPA programs. For example, we need to improve our permitting processes. Our goal is to make all permit decisions, up or down, in 6 months. I am not suggesting that we approve all permits within a set amount of time.

On a similar front, we must provide more certainty in our enforcement actions. When EPA's enforcement actions linger for years, it hurts the competitiveness of American businesses.

Let me be clear, I am not advocating for letting people off the hook or reducing fines. Rather, I am advocating for making enforcement decisions in a timely and consistent manner.

Third, and finally, we need to provide more certainty in risk communication. As an Agency, we must be able to speak with one voice and clearly explain to the American people the environmental and health risks that they face in their daily lives. We have fallen short in this area from our response to 9/11 to recent events surrounding the Gold King Mine in Colorado, and most recently in Flint, Michigan. We owe it to the American public to ensure that this does not happen again.

We are also prioritizing our efforts to assist State and local governments in preparing for and responding to natural disasters and extreme weather events. Readiness is all, to quote my favorite author, Shakespeare.

There is no doubt in my mind that we will make improvements in all of these areas. I believe in this Agency; I believe in its mission, and I believe in its personnel.

I would like to take a minute to talk about my fellow EPA employees. I know how dedicated and passionate they are, and it is a privilege to work alongside them.

Senator BARRASSO. If I could have the witness suspend, please, and ask the officers to remove the disturbance.

[Pause.]

Senator BARRASSO. Apologize for the delay. Thank you.

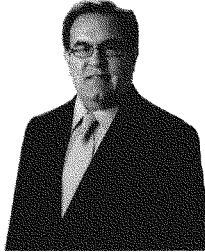
Mr. WHEELER. Quite all right.

I would like to take a minute to talk about my fellow EPA employees. I know how dedicated and passionate they are, and it is a privilege to work alongside them. I have told them that my instinct will be to defend their work, and I will seek the facts from them before drawing conclusions.

We exist to serve the public. As such, we should conduct our business in a manner fully deserving of the public's trust and confidence. Earlier this week, I issued my own fishbowl memo which lays out the principles and protocols that will guide our efforts to be transparent, open, and accountable to the American public. Our success as an Agency depends on it.

Thank you, and I look forward to answering your questions.

[The prepared statement of Mr. Wheeler follows:]



Andrew R. Wheeler
Acting Administrator
Environmental Protection Agency

Andrew Wheeler is the Acting Administrator of the Environmental Protection Agency. Prior to joining the EPA, Mr. Wheeler was the head of the energy & environment team at Faegre Baker Daniels Consulting and co-chaired the energy and natural resources industry team within the law firm. Mr. Wheeler previously worked at the U.S. Senate Environment and Public Works Committee for fourteen years, serving in various roles including as the majority and minority staff director and chief counsel. He started his career at the Environmental Protection Agency as a special assistant in the toxics office where he received three bronze medals. He has a B.A. from Case Western Reserve University, a J.D. from Washington University in St. Louis, and an M.B.A. from George Mason University. Mr. Wheeler is a member of the District of Columbia bar and an Eagle Scout.

**Testimony of
Acting-Administrator Andrew Wheeler
before
Senate Committee on Environment and Public Works
August 1, 2018**

Good morning, Mr. Chairman, Ranking Member Carper, and members of the committee.

As I said in my confirmation hearing, I am truly honored to appear before the same committee that I spent 14 years working on.

I am humbled and grateful that President Donald Trump has given me the opportunity to lead the Environmental Protection Agency— the very Agency where I began my career in 1991 in the Pollution Prevention and Toxics Office.

When President Trump called me and appointed me Acting Administrator, he asked me to focus on three things: Clean up the air, clean up the water, and provide regulatory relief to help the economy thrive and create more jobs for American workers.

I believe we can accomplish all three at the same time. In fact, we have already made progress on all these fronts in just the past few weeks. We haven't slowed down; we haven't missed a step.

On my first day as Acting Administrator, we sent to the Office of Management and Budget (OMB) for interagency review a proposed rule to set state guidelines for greenhouse gas emissions from power plants.

We recently finalized the first set of revisions to the 2015 regulations for the disposal of coal ash. These actions will provide states and utilities much-needed flexibility in the management of coal ash.

Last week, we issued a final rule that codifies the animal waste report exemptions which were signed into law in the Fair Agricultural Reporting Method (FARM) Act.

We also approved pathways for biofuel derived from sorghum. This action lays the groundwork for more homegrown fuels under the Renewable Fuels Standard and adds diversity to the nation's biofuel mix.

Finally, we recently commemorated the one-year anniversary of the Superfund Task Force Report and highlighted the tremendous progress we've made cleaning up sites and returning them to productive use.

As you can see, we are continuing the President's agenda posthaste. The combination of regulatory relief and the President's historic tax cuts continues to spur economic growth across the country, particularly in communities that were previously – and wrongly – ignored or forgotten.

We have made historic progress at EPA since President Trump took office. But we have more work to do. One way we can fulfill the President's agenda is by providing more certainty to the American people. A lack of certainty from EPA hinders environmental protections and creates paralysis in the marketplace.

We will prioritize certainty in three areas: Certainty to the states and local governments, including tribes; certainty within EPA programs, such as permitting and enforcement actions; and certainty in risk communication.

First, we need to provide more certainty to the states, who are the primary implementers and enforcers of many of our environmental laws and programs. For example, the Clean Water Act lays out the process by which states can take charge of their own pollutant discharge elimination systems. EPA's recent approval of Idaho's program is a great example of EPA working cooperatively with states to provide them certainty with respect to water permitting.

We are also collaborating with states to improve air quality. Since March 2017, EPA has turned an average of one Federal Implementation Plan into a State Implementation Plan each month. These actions provide states clarity and certainty as they strive to reduce air pollution.

We will continue to work closely with the states to ensure our mutual responsibilities under the law are fulfilled.

Second, we need to provide greater certainty within EPA programs. For example, we need to improve our permitting processes. Permitting issues can heavily impact small and mid-sized businesses – the backbone of the American economy. Prior to this administration, we were not systematically tracking permit decisions.

Through EPA's Lean Management System and the recently created Office of Continuous Improvement, we are now tracking the time it takes to issue permits. Our goal is to make all permit decisions, up or down, in six months. If we are able to accomplish this, we will make a profound, transformative change in how the Agency carries out its responsibilities. I am not suggesting that we approve all permits within a set amount of time. I am suggesting that we make a decision, yes or no, within a set amount of time.

On a similar front, we must provide more certainty in our enforcement actions. During my time in private practice, I learned firsthand the importance of timely enforcement actions. Companies must disclose pending enforcement actions in their annual shareholder reports, and when EPA doesn't settle and enforcement actions linger for years, companies must still report them. This hurts the competitiveness of U.S. businesses. It also delays actions that may be necessary to prevent harm to the environment. Let me be clear: I'm not advocating for letting people off the hook or reducing fines. Rather, I'm advocating for making enforcement decisions in a timely and consistent manner. Accomplishing this will dramatically improve our relationship with American businesses and workers.

Third, and finally, we need to provide more certainty in risk communication. Risk communication goes to the heart of EPA's mission of protecting public health and the environment. As an Agency, we must be able to speak with one voice and clearly explain to the American people the environmental and health risks they face in their daily lives. We have fallen short in this area, from our response to September 11th to recent events surrounding the Gold King Mine in Colorado, and Flint, Michigan. We owe it to the American public to ensure this doesn't happen again.

The reality is that risk communication disproportionately impacts people at the lower end of the socioeconomic ladder. They are the ones who often live, work, or go to school near industrial facilities or areas with environmental hazards. They are most impacted by how well – or poorly – we communicate health risks. EPA owes it to the American public to be able to explain in very simple and easy to understand terms, “What are the risks that they face in their daily lives?” As an Agency, we need to provide this certainty to the American public.

If we are able to improve in these areas – and I believe we can – and provide more certainty to the public and the regulated community, we can dramatically enhance environmental protections and give the private sector the clarity and transparency it needs to grow and create more jobs.

I believe in this Agency. I believe in its mission. And I believe in its personnel. Again, I began my career in Washington as an EPA career employee. Like so many of our hardworking career employees, I came to the Agency to help the environment.

I'd like to take a minute to talk about my fellow EPA employees. I know how dedicated and passionate they are, and it is a privilege to work alongside them. I have told them that my instinct will be to defend their work, and I will seek the facts from them before drawing conclusions.

As an Agency, we are only as good as the sum of our human capital. My first trip as Deputy Administrator was to visit our campus at Research Triangle Park. I have already visited our offices in Regions 1, 2, 3, and 4, and I plan to travel to the rest as soon as possible. In July, I had a robust and productive dialogue with senior career and political leadership from EPA headquarters and all 10 regions at our two-day Senior Leadership Council. I want to ensure that EPA employees are getting the support they need to carry out our important work on behalf of the American people to protect public health and the environment.

We have important work before us. However, let us not forget that the United States is the gold standard worldwide for environmental protection. We have come a long way in the past several decades.

Since 1970, emissions of the six criteria air pollutants regulated under the National Ambient Air Quality Standards established through the Clean Air Act have dropped 73 percent, while the U.S. gross domestic product grew by over 250 percent. This is a remarkable achievement that should be recognized, celebrated, and replicated around the world. A 73 percent reduction in any other social ill – crime, poverty, diseases, or drug addiction – would lead the evening news.

This is just one of the many reasons the U.S. is a global leader in environmental stewardship. The world is watching us. We will not shirk this responsibility or take it lightly. In the short time

that I have served as Acting Administrator, I've already met with two of my international counterparts. I look forward to further developing those relationships and engaging with other environmental ministers from around the world.

America is blessed with abundant natural resources – resources we use to fuel and feed the world. We will continue to protect and steward these resources for the benefit of ourselves and our posterity.

Thank you, and I look forward to answering your questions.

Senate Committee on Environment and Public Works
Hearing entitled, “Examining EPA’s Agenda: Protecting the Environment and Allowing
America’s Economy to Grow.”
August 1, 2018
Questions for the Record for Andrew Wheeler

Chairman Barrasso:

1. The administration has indicated that it plans to issue a Reid Vapor Pressure (RVP) waiver for fuels with ethanol concentrations higher than ten percent. However, in 2011, EPA formally reaffirmed that it did not have the authority to issue a RVP waiver for these fuels. Specifically, EPA stated that: “In sum, the text of section 211(h)(4) [of the Clean Air Act] and this legislative history supports EPA’s interpretation, adopted in the 1991 rulemaking, that the 1 psi waiver only applies to gasoline blends containing 9 - 10 vol% ethanol.” 76 Fed. Reg. 44406, 44433 (July 25, 2011). Please explain the process by which EPA has re-evaluated its statutory authority and come to a new conclusion.

On October 9, 2018, President Trump directed EPA to undertake a Clean Air Act rulemaking to modify our regulations to allow E15 to take advantage of the 1-pound per square inch (psi) Reid Vapor Pressure (RVP) waiver that currently applies to E10 during the summer months. We are currently working on the proposed rulemaking, which will provide stakeholders and the public with relevant legal and technical information. The rulemaking will be subject to a notice-and-comment process and will therefore present an opportunity for all stakeholders to review the proposal and provide input.

2. On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

EPA has begun work on a Clean Air Act rulemaking to modify our regulations to allow E15 to take advantage of the 1-pound per square inch (psi) Reid Vapor Pressure (RVP) waiver that currently applies to E10 during the summer months. We are currently developing the proposed rule, which will provide stakeholders and the public with relevant legal and technical information. The rulemaking will be subject to a notice-and-comment process and will therefore present an opportunity for all stakeholders to review the proposal and provide input.

3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

The 2018 *Biofuels and Environment* report fulfills our obligation under section 204 of the Energy Independence and Security Act of 2007. The final renewable fuel obligation (RVO) rule will fulfill our obligations under section 211(o) of the Clean Air Act in keeping with the requirements and authorities provided by Congress in 211(o) for doing so.

The final RVO rule will take into consideration the 2018 *Biofuels and Environment* report. For additional context see answer included in Part B below.

- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

The final renewable fuel obligation (RVO) rule will fulfill our obligations under section 211(o) of the Clean Air Act in keeping with the requirements and authorities provided by Congress in section 211(o) for doing so. Section 211(o) provides EPA the authority to “waive the requirements of paragraph (2) in whole or in part...based on a determination by the Administrator, after public notice and opportunity for public comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States.” In our proposal for the 2019 RVO rule, we did not propose to exercise this waiver authority.

The 2018 Biofuel and Environment report was based on a review of the literature related to biofuels up until April 2017. As the report noted, attributing environmental impacts to biofuels is complicated and uncertain. For example, crops such as corn and soy are produced for many other purposes besides biofuels and it remains unclear what portion and severity of the impacts can be attributed to biofuel production. In addition, the report did not include a comparative assessment of the impact of biofuels on the environment relative to the impacts of other transportation fuels or energy sources, including fossil fuels, for every environmental endpoint. Furthermore, the *Biofuels and Environment* report also notes that environmental impacts associated with large scale agriculture can be reduced if efficient technologies, best management practices, and conservation techniques are widely implemented. In this regard, EPA continues to work

closely with USDA and supports the efforts by USDA to promote and advance sustainable agricultural practices.

4. Historically, EPA and DOE have protected the confidential business information, including the identities, of small refineries, which petition for hardship relief under the Renewable Fuel Standard (RFS). Failure to protect this information would: (1) give entities that sell refined products in the same market as a small refinery a competitive advantage over that refinery; (2) give entities that sell renewable identification numbers (RINS) to a small refinery the opportunity to extract a higher price from that refinery; (3) move the secondary RINs market, which is measured in billions of dollars; and (4) increase the risk of insider trading and securities fraud with respect to publicly-traded companies that own small refineries. Will EPA continue to protect the confidential business information, including the identities, of small refineries petitioning for hardship relief?

EPA is committed to protecting confidential business information (CBI). Both EPA and DOE staff understand the sensitivity of CBI and take very seriously the need to maintain confidentiality of such information, consistent with our regulations at 40 CFR part 2, subpart B, Confidentiality of Business Information (specifying the requirements for protecting information for which a claim of business confidentiality has been made and the procedures for resolving a claim and protecting or disclosing information).

5. The public, state governments, members of Congress, and others have shown a growing interest in and concern about per- and polyfluoroalkyl substances (PFAS). Among the issues that you are addressing as Acting Administrator, where do PFAS issues rank?

Addressing per- and polyfluoroalkyl substances (PFAS) remains among EPA's priorities.

6. Who within EPA has responsibility for managing EPA's efforts with respect to PFAS?
 - a. Has EPA formed an intra-agency group to coordinate the agency's PFAS activities? If EPA has created such a group, which EPA offices are represented in that group?

Yes. The EPA's Office of Water is leading a cross agency workgroup addressing per- and polyfluoroalkyl substances (PFAS). The workgroup brings together expertise from across the EPA, including top scientists and senior officials from the Agency's air, chemicals, land, research, enforcement and water offices. In addition to a cross-program effort, the EPA is also working closely with the Agency's regional offices to enhance cooperation

with partners at the state and local levels, to provide on-the-ground knowledge about specific issues to address PFAS nationwide.

7. I understand that an inter-agency group exists to coordinate PFAS activities among federal agencies.
 - a. Which agencies are represented in that group?
 - b. How often does this group meet?
 - c. Are there opportunities for public engagement with the group?

The EPA is coordinating each of the Agency's actions on per- and polyfluoroalkyl substances (PFAS) with other federal agencies to ensure the Agency has input from experts with relevant expertise from across the federal government. For example, the EPA developed draft toxicity values for GenX chemicals and perfluorobutane sulfonate (PFBS) in cooperation with our federal partners, including agencies within the Department of Health and Human Services (such as Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry (ATSDR), and the National Institutes of Health), the Department of Defense (DoD), the National Aeronautics and Space Administration, the U.S. Geological Survey and the Office of Management and Budget.

In 2018, the EPA visited communities impacted by PFAS to hear directly from the public on how to best help states and communities facing this issue. To plan these events, the EPA coordinated closely with the states and local communities as well as with DoD and ATSDR. Each engagement included panelists and/or presentations from local governments, states, and federal partners. The EPA remains committed to continued collaboration with our federal partners and public engagement as the Agency works to protect public health.

8. In proposing actions to address ongoing PFAS concerns, will EPA seek public comment on its proposed actions?

The EPA is currently seeking public input on draft toxicity values for GenX chemicals and perfluorobutane sulfonate (PFBS) in cooperation with our federal partners. This action marks the first of the four actions the EPA announced at the May 2018 PFAS National Leadership Summit.

In 2018, the EPA visited communities impacted by PFAS to hear directly from the public on how to best help states and communities facing this issue. The EPA also collected public input through a docket which can be accessed at <https://www.regulations.gov> (Docket No. OW-2018-0270). Information from the National Leadership Summit, community engagements, and public input provided in the docket will all help the EPA as the Agency considers potential actions to assist states, tribes, and local communities address PFAS contamination. Depending on

the nature of the action the EPA decides to undertake, the Agency will seek further public review and comment on the specific actions as appropriate. For example, the EPA will seek further public comment on any proposed regulatory actions the Agency determines are needed.

- a. Will EPA seek peer review of those proposed actions through, for example, EPA's Science Advisory Board?

The EPA is committed to using robust scientific analysis to inform decisions by the Agency regarding PFAS. The Science Advisory Board (SAB) provides valuable independent expertise that informs and improves the EPA's actions. On June 1, 2018, the EPA briefed the SAB on the Agency's efforts to help states and communities address PFAS contamination. Depending upon the additional actions the Agency decides to undertake, the EPA may seek further input from the SAB.

9. Does EPA have any plans to seek technical or scientific input on any PFAS issue from the National Academies of Sciences, Engineering, and Medicine?

The EPA is committed to using robust scientific analysis to inform decisions by the Agency regarding PFAS. The National Academies of Sciences, Engineering, and Medicine (NAS) provides expert advice on some of the most pressing challenges facing the nation. Depending upon the additional actions the Agency decides to undertake, the EPA may seek input from the NAS.

Ranking Member Carper:

10. EPA's Science Advisory Board provides independent scientific and technical review, advice and recommendations to the Administrator on the science forming the basis for EPA's actions. In June, the Board wrote to former-Administrator Pruitt announcing that it would like to review the science forming the basis for six controversial rules before they are finalized. The request included the basis for the rule regulating greenhouse gas emissions from cars and SUVs, the rule exempting polluting glider trucks from emissions standards, the rule designed to curb greenhouse gas emissions from the oil and gas industry, the Clean Power Plan, the rule setting greenhouse gas emission standards for power plants, and EPA's proposed "secret science" rule to ignore some of the world's best scientific studies when writing regulations.
 - a. Will you commit to making sure that the EPA Science Advisory Board gets access to any materials it needs to complete its reviews? If not, why not?
 - b. Will you commit to wait to receive and review the advice the Board gives you *before* EPA finalizes any of these rules? If not, why not?

We are in the process of responding to 3 letters from the SAB (two dated June 21, 2018 and one dated June 28, 2018) and expect to send responses in the near future.

In our July 17, 2018 private meeting, I expressed my concerns about the manner in which EPA is implementing the Toxic Substances Control Act (TSCA). It is my belief that if EPA does not immediately reverse course, it risks having the majority of its TSCA implementation efforts overturned in litigation. I have several questions regarding some of my concerns. The attachments referenced in these questions consist of EPA technical assistance provided to Congress while the law was being negotiated, and are available at https://www.epw.senate.gov/public/_cache/files/f/0/f0729f1a-4385-453f-b7f8-442825a0721c/A681AA266D5CC024C98FC85A944EB5E_senator-carper-questions-for-the-record-to-epa-nominees.pdf.

11. Section 26 of TSCA states that:

“(4) CHEMICAL SUBSTANCES WITH COMPLETED RISK ASSESSMENTS.—With respect to a chemical substance listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which the Administrator has published a completed risk assessment prior to the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the Administrator may publish proposed and final rules under section 6(a) that are consistent with the scope of the completed risk assessment for the chemical substance and consistent with other applicable requirements of section 6.”

Page 1 of Attachment 1 is an email sent by EPA on March 17, 2016, the substance of which was shared with the bipartisan and bicameral negotiators of the Toxic Substances Control Act. It states that EPA “just discovered a technical issue that will have significant policy implications for EPA’s ongoing work under Section 6. As currently drafted, both Senate and House bills could frustrate EPA’s ability to timely manage risks that have been (or may be) identified in our current Work Plan risk assessments.” The email goes on to describe several risk assessments on chemical substances (TCE, NMP, MC and 1-BP) that had been completed or were near completion by EPA, and stated that “EPA is *not* looking at all the conditions of use for these chemicals. This approach, which might be characterized as a *partial* risk evaluation or *partial* safety determination, we see as simply not contemplated under the Senate and House bills. The section 6 structure in both bills would require EPA to assess a chemical in its entirety, based on all conditions of use – not just a subset of those uses.” EPA then went on to state that if it were to move forward with rulemakings to restrict or ban some or all of these substances (which it has subsequently proposed to do), there would be some risk that the rules would be found to be inconsistent with the new statutory requirement to assess all conditions of use. EPA said that it would “welcome an opportunity to work with you on a drafting solution to this issue.”

- a. Do you agree with EPA's March 17, 2016 view that if it had moved forward with these partial risk evaluations and rulemakings absent explicit statutory authority to do so even though the risk evaluations had not considered all conditions of use, that EPA could have been sued for not complying with the law's requirements? If not, please provide specific reasons why not.

EPA agrees that proper implementation of the statutory requirements for evaluating existing chemicals is key to ensuring the safety of chemicals in the marketplace under amended TSCA. EPA is committed to implementing the amended TSCA law as written by Congress, and taking actions consistent with the rules EPA has promulgated, via notice and comment rulemaking as required by TSCA, to implement the law.

- b. Pages 2 and 3 of Attachment 1 consist of April 2, 2016 Technical Assistance from EPA that was provided to the Senate on a drafting solution to address the problem identified by EPA on March 17, 2016. Do you agree that this language, which is also drafted as an amendment to Section 26, bears a close resemblance to the language that was enacted into law, and, like the enacted text, provides EPA with statutory authority to complete rulemakings on the chemical substances on which it completed risk assessments prior to the enactment of the new law even though the risk assessments were not undertaken for all conditions of use? If not, please provide specific reasons why not.

EPA is not precluded from finalizing proposed regulations based on risk evaluations conducted prior to the enactment of amendments to TSCA. For TCE and NMP, EPA has concluded that the Agency's previous assessments of the potential risks will be more robust if the potential risks from these conditions of use are evaluated by applying standards and guidance that EPA has developed under amended TSCA. EPA is committed to using the best available science and information to implement the amended TSCA law as written by Congress, and taking actions consistent with the rules EPA has promulgated, via notice and comment rulemaking as required by TSCA, to implement the law. For MC, the agency is currently considering information received during the public comment period for the proposed rules.

12. The newly enacted TSCA, for new chemicals, states that:

“(e) REGULATION PENDING DEVELOPMENT OF INFORMATION.—(1)(A)

If the Administrator determines that—

- (i) the information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of a chemical substance with respect to which notice is required by subsection (a); or
- (ii)(I) in the absence of sufficient information to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities,

may present an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use; or (II) such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance, the Administrator shall issue an order, to take effect on the expiration of the applicable review period, to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance or to prohibit or limit any combination of such activities to the extent necessary to protect against an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, and the submitter of the notice may commence manufacture of the chemical substance, or manufacture or processing of the chemical substance for a significant new use, including while any required information is being developed, only in compliance with the order.”

Attachment 2 consists of a portion of EPA’s Technical Assistance on an April 7, 2016 draft of Section 5 of TSCA that EPA provided to the Senate. Comment A7 provides EPA’s views on section 5(e). This comment noted a change from previous drafts, observing that the draft allowed manufacture of a new chemical to proceed even if EPA did not have enough information to determine whether it posed an unreasonable risk. This is because the draft as written allowed for manufacture to proceed if EPA *either* took steps to obtain sufficient information about the chemical substance (but before it received and evaluated that information) OR if it imposed a risk management order. EPA also suggested some edits to this draft to restore the “functionality of the prior draft,” which ensured that manufacture could not proceed unless/until the information about the chemical substance was sufficient and EPA made the necessary risk determination, or in compliance with an EPA-issued order to protect against unreasonable risk under the conditions of use while the information was being developed.

- a. Do you agree that the statute requires EPA to issue an order to protect against an unreasonable risk a new chemical substance may pose under the conditions of use, either while information EPA needs to assess the chemical substance is developed, or if EPA determines that the substance may present an unreasonable risk under the conditions of use, or if such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

EPA appreciates the significant responsibility conferred under Section 5 of amended TSCA and is dedicated to fully utilizing all authorities under

section 5, including the use of consent orders, as applicable, to protect the public against any unreasonable risk a new chemical substance presents or may present. EPA is committed to implementing its new chemicals responsibilities consistent with TSCA section 5 as amended by Congress.

13. Section 5(f)(4) of TSCA states that:

“(4) TREATMENT OF NONCONFORMING USES.—Not later than 90 days after taking an action under paragraph (2) or (3) or issuing an order under subsection (e) relating to a chemical substance with respect to which the Administrator has made a determination under subsection (a)(3)(A) or (B), the Administrator shall consider whether to promulgate a rule pursuant to subsection (a)(2) that identifies as a significant new use any manufacturing, processing, use, distribution in commerce, or disposal of the chemical substance that does not conform to the restrictions imposed by the action or order, and, as applicable, initiate such a rulemaking or publish a statement describing the reasons of the Administrator for not initiating such a rulemaking.”

Attachment 3 is an April 9, 2016 email from EPA providing responses to questions on the April 7 draft included in Attachment 2. The email asks whether the removal of provisions 5(e)(4) and 5(f)(1)(C) in that draft would also remove EPA's requirement to consider whether to issue a Significant New Use Rule (SNUR) when it issued orders to a submitter of a pre-manufacturing notice (PMN) (and explain its decision if it chose not to do so). EPA responded in the affirmative.

- a. Do you agree that the enacted law retained the April 7 draft's requirement to consider whether to issue a Significant New Use Rule (SNUR) when EPA has issued an order to a submitter of a pre-manufacturing notice (PMN) (and explain its decision if it chooses not to do so)? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

EPA appreciates the significant responsibility conferred under Section 5 of amended TSCA and is dedicated to fully utilizing all authorities under section 5, to protect the public against any unreasonable risk a new chemical substance presents or may present. EPA is committed to implementing its new chemicals responsibilities consistent with TSCA section 5 as amended by Congress. Section 5(4) of the statute does allow EPA to consider whether to issue a Significant New Use Rule when EPA has made a determination under subsection (a)(3)(A) or (B).

14. The newly enacted TSCA requires EPA, for existing chemicals that are designated a high-priority chemical substance or otherwise designated for a risk evaluation, to:

“conduct risk evaluations pursuant to this paragraph to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use.”

In the statute, ‘conditions of use’ is defined as:

“the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.”

Attachment 4 is a December 12, 2016 (post-enactment) email conveying Technical Assistance from EPA that responded to several questions posed about how EPA was required to do risk evaluations for a chemical substance under the conditions of use.

- a. Do you agree with EPA’s responses to these questions as well as the narrative that precedes the specific responses to questions? If not, please provide specific reasons why not, indicating in your response how your views are consistent with the statutory text excerpted above (or, as applicable, how EPA’s responses are inconsistent with the statutory text excerpted above).

EPA is committed to implementing the amended TSCA law as written by Congress, and taking actions consistent with the rules EPA has promulgated, via notice and comment rulemaking as required by TSCA, to implement the law. As EPA stated in the Risk Evaluation Process final rule (40 CFR 702) promulgated in 2017, regarding the conditions of use, as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk. In that regard, EPA will be guided by its best understanding, informed by legislative text and history, of the circumstances of manufacture, processing, distribution in commerce, use and disposal Congress intended EPA to consider in risk evaluations.

15. Attachment 5 is a document that includes EPA's technical assistance and observations that compared an April 12 2016 Senate draft of section 5 to an April 18, 2016 House draft.
- a. On pages 2 and 15, EPA provides comments related to the 90-day period for review of a PMN. Do you agree that the enacted law includes text that reflects EPA's input in these comments? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
 - b. On Page 14, EPA notes the deletion of the requirement not to consider costs or other non-risk factors when considering section 5(h) exemption requests. Do you agree that the enacted law retained this deletion in this subsection, but included the requirement in sections 5(a), 5(e) and 5(f)? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

EPA is committed to following all section 5 statutory requirements for the conduct and timing of PMN reviews. EPA is committed to implementing its new chemicals responsibilities consistent with TSCA section 5 as amended by Congress. Section 5(h) does not prohibit EPA from considering costs or other non-risk factors when considering exemption requests.

16. Attachment 6 consists of EPA's comments to a draft of Senate section 5 dated around April 12, 2016.
- a. EPA's comment A22 notes the absence of the requirement not to consider costs or other non-risk factors when considering section 5(h) exemption requests. Do you agree that the enacted law does not include the requirement in this subsection, but does include the requirement in subsections 5(a), 5(e) and 5(f)? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
 - b. Do you agree that while this same EPA comment identifies one inconsistency between the above-described text that is absent from subsection 5(h) but appears throughout the rest of section 5, it does not identify another difference, namely the presence of the term "specific uses identified in the application" in subsection 5(h) versus the term "conditions of use" that appears throughout the rest of section 5? If not, why not?

EPA is committed to following all section 5 statutory requirements, including those in section 5(h), for the conduct and timing of PMN reviews. EPA is committed to implementing its new chemicals responsibilities consistent with TSCA section 5 as amended by Congress. Section 5(h) does not prohibit EPA from considering costs or other non-risk factors when considering exemption requests.

17. Attachment 7 consists of EPA's comments to an April 3, 2016 Senate draft of section 5.

- a. On page 1, EPA observes that "5(e) requires no action on the part of the Administrator whatsoever: it is wholly discretionary authority to impose requirements on the manufacture pending development of information." Do you agree that the enacted law requires EPA to either prohibit manufacture or issue an order to mitigate against potential risk while information is being developed by a manufacturer? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
- b. On page 2, EPA responds to a question posed by Senate staff, stating "We think it is important not to limit review to the uses identified in the notice. If the identified uses seem fine, and EPA therefore does nothing, the submitter is free to submit an NOC and then manufacture in any way he or she wants. EPA often uses 5(e) orders to address uses beyond those specified in notices." Do you agree that the enacted statute requires EPA to review the conditions of use (as that term is defined in the statute) of a chemical substance when it reviews a PMN as EPA advised the Senate in this comment? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
- c. On page 9, EPA says that "It seems like the best solution, per above comment, may be to drop the limitation above that the order pertain only to the conditions of use specified in the notice." Do you agree that the enacted statute incorporated EPA's proposed 'best solution' and did not limit orders only to the conditions of use specified in the notice? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
- d. A second EPA comment on page 9 states that "A possible solution would be, in line with the Senate bill and offer, to drop (e) and require EPA to issue an order under what is now (f) any time EPA either makes a may present finding or lacks sufficient info, as necessary to make the unlikely to present finding." Do you agree that the enacted text retains section 5(e) and also requires EPA to issue an order any time EPA either makes a may present finding or lacks sufficient information before manufacturing can commence? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
- e. On page 16, EPA responds to a question from Senate staff about whether, in the 5(h) exemptions section, it makes sense to deviate from the rest of the section's references to 'conditions of use' and instead limit EPA's exemption determination to the uses of the chemical substance identified in the exemption request. EPA responds by stating "We agree that the reference to specific uses makes sense, but not because of anything having to do with a SNUR. It seems to us that, if a party is seeking a partial section 5 exemptions, we would consider only the uses for which they are seeking the exemption, since the exemption would limit them to those." Do you agree that the enacted statute follows EPA's advice to retain the authority for EPA to consider just the uses of a chemical substance included in an exemption request, but does not make the same limiting change anywhere else so as not to so limit its review of all conditions of use of a chemical substance subject to a PMN? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

EPA is committed to following all section 5 statutory requirements for the conduct and timing of PMN reviews, including those related to the conditions of use. EPA is committed to implementing its new chemicals responsibilities consistent with TSCA section 5 as amended by Congress. Section 5(e) states that “the Administrator shall issue an order . . . to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance or to prohibit or limit any combination of such activities to the extent necessary to protect against an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use.” EPA acknowledges that only Section 5(h)(1)(A) contains the phrase “including an unreasonable risk to a potentially exposed or susceptible subpopulation identified by the Administrator for the specific conditions of use identified in the application” in Section 5. For Section 5(a)(3) reviews, EPA reviews the conditions of use and does not limit its review to the intended uses identified in a PMN.

18. What actions is EPA currently taking and planning to take to enforce emissions requirements for glider trucks?
 - a. Is EPA requiring Fitzgerald and other glider truck manufacturers to demonstrate compliance with these rules, for example, by regularly reporting to EPA on its sales of glider trucks? If not, why not, and how does EPA plan to ensure that the rules are being complied with?

Manufacturers of glider vehicles are required by regulation (40 CFR 1037.250 and 1037.635) to annually report to EPA specific information on their manufacturing operations, including total U.S.-directed production volume in the prior year, and whether the vehicles complied with the standards or were exempt.

19. EPA’s proposed revision to its Phase 2 Medium- and Heavy-Duty greenhouse gas rules proposes to repeal the emission standards and other requirements for glider vehicles, glider engines, and glider kits. This proposal, if finalized, would conclude that glider vehicles are not “new motor vehicles” within the meaning of CAA section 216(3), glider engines are not “new motor vehicle engines” within the meaning of CAA section 216(3), and glider kits are not “incomplete” new motor vehicles. The result of these re-interpretations would be that EPA would lack authority to regulate glider vehicles, glider engines, and glider kits under CAA section 202(a)(1). Many Clean Air Act experts do not agree with EPA’s proposed re-interpretations, and have announced plans to litigate if the proposal is finalized.

- a. If courts agree with these prospective petitioners and reject EPA's proposed re-interpretations, do you agree that glider vehicles, glider engines, and glider kits would remain subject to EPA's Phase 2 greenhouse gas rules in the way contemplated by that rule? If not, why not?

We continue to consider each of these factors as we revisit whether or not the Phase 2 requirements for glider vehicles are consistent with the Clean Air Act.

- 20. Section 209 of the Clean Air Act prohibits States or any subdivision thereof from adopting or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines (unless the State to adopt or enforce such a standard is California, it is granted a waiver by EPA to do so, and states that are subject to section 177 of the Clean Air Act subsequently adopt California's standard).
 - a. In the event that EPA finalizes its proposed revision to its Phase 2 Medium- and Heavy-Duty greenhouse gas rules, and those reinterpretations are upheld in court, do you agree that section 209's preemption provision would no longer apply to any state requirements relating to control of emissions from glider vehicles or glider engines? If not, why not?
 - b. Do you also agree that in this event, there could be 50 different state standards for gliders (in addition to the standards California has already set)? If not, why not?

We continue to evaluate EPA's authority to regulate glider vehicles under the Clean Air Act. The evaluation of EPA's authority under the Clean Air Act may or may not have an impact on preemption applicable to California and other states under sections 209 and 177 of the Clean Air Act.

- 21. During the development of the "Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks", EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket¹. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled "Email_5_-_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf". This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.

¹ <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

- a. The document notes that “EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the “GHG version”).... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards.” Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA’s concerns. If not, will you ensure that all necessary technical input from EPA’s Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?
- b. One of the main contributors to the NHTSA conclusions that the augural standards would cause thousands of additional deaths is NHTSA’s “consumer choice” module, which asserts that making the fleet more fuel efficient will cause people to keep their less safe, older vehicles for longer, and that this will mean there are more unsafe vehicles on the road (because newer vehicles have more safety technologies). The document states that EPA believed this NHTSA model was flawed, because it predicts an additional 26 million non-existent vehicles would be in the 2016 fleet and 46 million additional non-existent vehicles in the 2030 fleet. For context, this would represent a 15-20% increase in registered vehicles. The document also notes that this problem appeared to be un-remedied several months after EPA first raised it. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- c. The document also found that NHTSA’s consumer choice model predicts an unexplained, and apparently fictitious 10-15% increase in vehicle miles traveled (VMT). Specifically, the model somehow predicts people will drive an extra 239 billion miles in 2016 and 302 billion more miles in 2030. The increased deaths associated with higher efficiency standards in the NHTSA model are highly correlated to VMT (more driving equals more accidents equals more deaths). It would thus seem that EPA believes that the NHTSA safety numbers are predicated on an entirely fictitious driving scenario. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- d. The document also notes that NHTSA does not accurately model the manner in which automobile manufacturers trade credits as part of their compliance strategies, observing that NHTSA does not assume that compliance credits are traded between manufacturers’ car and truck fleets (which is what manufacturers currently do), and that this has the effect of over-estimating compliance costs. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on

- which it is based is significantly or fundamentally flawed?
- e. The document observes that NHTSA's model overestimates the costs of particular technologies compared to their actual costs and use in the real world. The model also reportedly selects the most expensive technology packages to meet the standards, which overestimates the most cost-effective ways to do so by \$1-2,000 per vehicle. Do you agree that manufacturers would be more likely to select the most cost-effective set of technologies with which to meet standards, rather than the least cost-effective set of technologies? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
 - f. The document stated that the NHTSA model omitted the benefits of some fuel-efficient technologies entirely, while others were erroneously inputted into the model. For example, 'start/stop' technology, a technology that causes engines to automatically shut off while vehicles are stopped in traffic (and thus use no fuel), is estimated to have a negative effect on fuel-efficiency, which is simply not plausible. Were these problems remedied in the proposed rule? If so, how? If not, will you ensure that they are remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
 - g. The document observed that NHTSA's model appears to add vehicle miles travelled in unexplained ways. For example, it observed that as many as 25 billion more miles of driving were predicted in a given year, even when the rebound effect (a measure of how much extra driving consumers are expected to do as a result of having more fuel-efficient vehicles) was set to 0 percent. The document observes that NHTSA's model actually predicts *less* driving when the rebound effect was set to 20 percent (meaning 20% more driving by consumers in more fuel-efficient vehicles would have been included in the model) than when it was kept to 0 percent. This suggests that NHTSA's model is incapable of predicting anything accurately, separate and apart from whether one agrees with its policy premise. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
 - h. The document states that NHTSA's "Proposed standards are detrimental to safety, rather than beneficial" once NHTSA's modeling errors were corrected. In fact, EPA found that the proposed standards result in "an average increase of 17 fatalities per year in VYs 2036-2045" relative to the current standards. Do you agree with this conclusion? If not, why not?
 - i. The document states that the NHTSA model projects that the current standards result in 8,000 fewer new automobiles sold annually in CYs 2021-2032, but that the used vehicle fleet would grow by 512,000 vehicles per year. That means that for every new fuel-efficient vehicle that consumers do not purchase (because NHTSA predicts their costs will be too high), somehow an additional 60 used vehicles will remain in the fleet. Do you agree that this scenario is simply

implausible in the real world, as the EPA document points out? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- j. In draft comments submitted to OMB on June 29, EPA commented that more than 90% of the net benefits for which the proposed rule to freeze fuel economy and greenhouse gas tailpipe standards takes credit are in fact benefits associated with vehicles manufactured prior to 2021. EPA attributed this to NHTSA's flawed consumer choice model, and questioned whether these could technically be attributable to the actual post-2021 rule. What would the net benefits of the preferred alternative— and for each of the other seven alternatives included in the NPRM — be if the agencies were to compare the costs to the benefits of cars manufactured within the MY 2021-29 cohort timeframe?

The documents you reference were made available by EPA in the rulemaking docket, because they are part of the documentation of interagency review of the draft proposed rule. Working through modeling methods and technical inputs and assumptions is a necessary and critical aspect of the agencies' joint rulemaking development efforts. EPA looks forward to reviewing the public comments on this proposal.

- 22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.
 - a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
 - b. How many individual facilities in the country were considered a "major source" under Section 112 on January 24, 2018?
 - c. Please identify, as of January 24, 2018, how many of the "major source" facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of

hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).

- d. Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA's decision to revoke the "once in, always in" policy.
- f. How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the "once in, always in" policy?
- g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
- h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

The January 25, 2018 Wehrum guidance memo builds upon a 2007 proposed rule that addressed the same issue. In that proposal, EPA asserted that, "The environmental, economic, and energy impacts of the proposed amendments cannot be quantified without knowing which sources will avail themselves of the regulatory provisions proposed in this rule, and what methods of HAP emission reductions will be used. It is unknown how many sources would choose to take permit conditions that would limit their potential to emit (PTE) to below major source levels. Within this group, it is also not known how many sources may increase their emissions from the major source MACT level (assuming the level is below the major source thresholds). Similarly, we cannot identify or quantify the universe of sources that would decrease their HAP emissions to below the level required by the NESHAP to achieve area source status." (72 FR 77, January 3, 2007). In the 2007 proposed rule, EPA concluded that, "we believe it is unlikely that a source that currently emits at a level below the major source thresholds as the result of compliance with a MACT standard would increase its emissions in response to this rule. However, even if such increases occur, the increases will likely be offset by emission reductions at other sources that should occur as the result of this proposal. Specifically, this proposal provides an incentive for those sources that are currently emitting above major source thresholds and complying with MACT, to reduce their HAP emissions to below the major source thresholds." (72 FR 73-74, January 3, 2007).

As we noted in the 2018 Wehrum Memorandum, EPA anticipates that it will be publishing a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute in early 2019. Further, as we proceed through the rulemaking process, we will prepare appropriate economic and other analyses with respect to the action and provide details about the length of the comment period and location of any public hearing.

23. On July 10, 2018, every major electrical utility trade organization representing coal-fired and other utilities joined with labor organizations on a letter to EPA confirming power plants have "reduced mercury emissions by nearly 90 percent over the past decade" and that "all covered plants have implemented the regulation [Mercury and Air Toxics Standards Rule, MATS] and that pollution controls—where needed—are installed and operating."² The letter goes on to say, "leave the underlying MATS rule in place and effective."³ States, environmental and health groups have echoed industry's message – leave MATS alone. Is the EPA considering a rule making that will change the current status of MATS? If so, please provide why and detailed information on what the EPA is considering.

In an April 2017 court filing, the EPA requested that oral argument for MATS litigation be stayed to allow the current Administration adequate time to review the Supplemental Cost Finding, which was the Agency's response to the U.S. Supreme Court decision in *Michigan v. EPA* which held that the EPA erred by not considering cost in its determination that regulation of hazardous air pollutant (HAP) emissions from coal- and oil-fired electric utility steam generating units (EGUs) is appropriate and necessary under section 112 of the Clean Air Act (CAA). After reviewing the cost finding, the EPA plans to propose and solicit comment on the results of the review and any changes that result from that review.

24. I'm proud to have had the opportunity to work with your former bosses – Senators Voinovich and Inhofe – on establishing the Diesel Emissions Reduction Act, known as DERA. Cleaning up dirty diesel engines through DERA is a win-win for economic and health benefits. I'm concerned that all the gains we've made in the past decade through DERA will be negated if EPA moves forward with the glider kit proposal. The DERA Coalition, a broad coalition of environmental, science-based, public health, commercial and industry groups, shares my concerns. The DERA Coalition wrote to the agency on January 5, 2018, opposing EPA's glider kit proposal, stating, "EPA's decision to encourage the continued proliferation of older engines through the glider industry would increase emissions from medium and heavy-duty vehicles and undermines the work of the Coalition and cooperative federalism with the EPA and states."⁴ It is clear that allowing some of the dirtiest heavy-duty diesel trucks, called glider trucks, to circumvent clean air cleanups is bad for the environment, bad for health and bad for the economy.

² https://www.eenews.net/assets/2018/07/11/document_gw_04.pdf

³ https://www.eenews.net/assets/2018/07/11/document_gw_04.pdf

⁴ <http://www.lung.org/assets/documents/advocacy-archive/dera-coalition-comments-rc.pdf>

Should the federal government continue to focus on replacing and retrofitting dirty diesel engines, rather than putting dirty diesel engines back on the road?

Thank you for your support for the DERA program. It aims to help address the pollution coming from older diesel engines, and its widespread support from many different stakeholders is indicative of the role it serves in addressing these legacy fleet emissions. EPA received many comments on the November 2017 glider proposal (82 FR 53442, November 16, 2017). We will consider each of these factors as we revisit whether or not the Phase 2 requirements for glider vehicles are consistent with the Clean Air Act.

25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.

- a. In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

EPA posts RIN transactional and compliance information on our RFS Data website. We recently implemented revisions to the website to incorporate additional data through a more interactive dashboard. Please visit the following link for additional information: <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard>.

- b. The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

EPA posts RIN transactional and compliance information on our RFS Data website. We are open to comments and suggestions for improving and expanding program and market insight. Currently, information is updated

the third Thursday of each month to reflect all transactions submitted through the end of the prior month.

- c. What further transparency measures is the EPA considering regarding the RFS program?

As mentioned in our response to question “a” above, we recently implemented revisions to the website to incorporate additional data through a more interactive dashboard. Please visit the following link for additional information: <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard>. Furthermore, On July 10, 2018, EPA published proposed volume requirements (83 FR 32024, July 10, 2018) under the Renewable Fuel Standard program for cellulosic biofuel, advanced biofuel, and total renewable fuel for calendar year 2019, and biomass-based diesel volume standards for calendar year 2020. In addition to seeking comment on the proposed volumes, EPA sought public comment on additional transparency measures for the Agency to implement. The Agency is still processing the large volume of comments received and will take all relevant comments into consideration when developing further RFS transparency measures.

26. Currently, the EPA has a Memorandum of Understanding with the Commodity Futures Trading Commission (CFTC) on RFS RIN market manipulation. In my questions for the record for the EPW January 30, 2018 hearing, I asked former Administrator Pruitt about the coordination between CFTC and EPA to assess potential RIN market manipulation – I wanted to know how often EPA staff communicated with the CFTC on RIN market manipulation and why EPA wasn’t asking for more help from the CFTC. Former Administrator Pruitt did not provide clear answers to these questions and in part of his answer he stated,
 “EPA is always looking for ways to improve implementation and transparency of the program, while balancing resource needs and our duty to protect confidential business information as required by our regulations. EPA will continue to work with CFTC and seek to utilize their market oversight expertise and authority.”⁵
 I’ve seen no action to date from EPA on the issue of RIN market manipulation and still do not have a clear answer on how EPA is coordinating with other agencies to address this issue.

- a. What have you and your staff done with the CFTC to assess potential RIN market manipulation?

⁵ See Scott Pruitt, Administrator Environmental Protection Agency, Responses to Questions for the Record, Hearing Before the U.S. Senate Committee on Environment and Public Works entitled “*Oversight Hearing to Receive Testimony from Environmental Protection Agency Administrator Scott Pruitt*” (Jan. 30, 2018).

Under the MOU, CFTC looked into a claim by the Renewable Fuels Association (RFA). RFA asserted that some participants in the RIN market may have deliberately driven up RIN prices during a certain period to disrupt the RIN market, in order to support political gains to repeal/reform the RFS program. The RFA letter, dated August 31, 2016, was sent to both CFTC and EPA. To assist CFTC, EPA provided RIN data from January 2010 to August 2016. CFTC reviewed this data and, as noted by the CFTC Chairman Chris Giancarlo in his testimony to the Senate Committee on Agriculture, Nutrition, and Forestry on February 15, 2018, CFTC did not find misbehavior in the market. Given EPA's market oversight limitations, we intend to pursue continued collaboration with CFTC under the MOU.

- b. How often has EPA staff communicated with the CFTC on RIN market manipulation?

EPA and CFTC have engaged in dialogue since the MOU on RIN market manipulation was signed and EPA is committed to continuing these discussions.

- c. Please provide dates, times and details of any communication, including any emails and phone calls, between CFTC and EPA since the MOU on RIN market manipulation was signed.

EPA and CFTC have engaged in dialogue since the MOU on RIN market manipulation was signed and EPA is committed to continuing these discussions.

- d. Provide any suggestions from CFTC on what data EPA should be collecting to mitigate RIN market manipulation.

On October 9, 2018, President Trump directed EPA to undertake a Clean Air Act rulemaking that, among other things, would change certain elements of the RIN compliance system under the RFS program to improve both RIN market transparency and overall functioning of the RIN market. While details of the proposal have yet to be finalized, EPA is currently considering a number of regulatory reforms that could be included in the proposal, such as: prohibiting entities other than obligated parties from purchasing separated RINs; requiring public disclosure when RIN holdings held by an individual actor exceed specified limits; limiting the length of time a non-obligated party can hold RINs; and changing the timelines that apply to obligated parties regarding when RINs must be retired for compliance purposes. We are currently working with CFTC to evaluate some of these proposals, and as part of that process we will take into consideration any relevant suggestions CFTC makes related to data collection or how to improve market functioning as a whole.

- e. The CFTC has successfully used position limits to protect against excessive speculation and market manipulation, which helped stabilize markets. Has EPA had any discussions with the CFTC about establishing position limits for the RFS RIN market? If not, why not? If so, please provide further details of those discussions.

EPA recognizes and values CFTC expertise with regard to ensuring market stability. We are currently developing a proposed rule intended to improve both RIN market transparency and overall functioning of the RIN market, and we are working with CFTC to evaluate some of the policy proposals before the agency.

- 27. Last year, I asked the Federal Trade Commission (FTC) staff to offer their expertise to EPA to help address RFS RIN market manipulation. I was told by former Administrator Scott Pruitt that on February 8, 2018, EPA and FTC did have a meeting to “initiate dialogue on this matter.”⁶

- a. Have there been further conversations with the FTC? If so, please provide further details. If not, why not?

As you noted, on February 8, 2018, EPA and FTC held a meeting to initiate dialogue on this matter, in which FTC discussed their authority and expertise, and we exchanged information to facilitate future discussions.

- b. Please provide any suggestions received from FTC on what data EPA should be collecting to mitigate RIN market manipulation.

During a February 8, 2018 call, FTC discussed their authority and expertise, which are largely focused on investigating fraudulent reporting of information to governmental agencies and other acts with intent to deceive or gain advantage in market. Given the nature of the call, FTC did not offer any specific suggestions on what data EPA should collect to mitigate RIN market manipulation.

- c. On August 6, 2009, the FTC finalized a rule that prohibited market manipulation in the petroleum industry. So far, EPA has not taken similar steps. Why is market manipulation banned for the wholesale petroleum markets and not for the RFS RIN markets?

⁶ See Scott Pruitt, Administrator Environmental Protection Agency, Responses to Questions for the Record, Hearing Before the U.S. Senate Committee on Environment and Public Works entitled “*Oversight Hearing to Receive Testimony from Environmental Protection Agency Administrator Scott Pruitt*” (Jan. 30, 2018).

Based on our internal reviews, EPA has not seen evidence of manipulation in the RIN market. CFTC analysis, discussed above, also did not find evidence of manipulation. Even so, we understand concerns about potential manipulation, and we are open to the prospect of discussing possible steps that could be taken by CFTC or others in this area.

- d. Is the EPA considering a similar rulemaking to prohibit market manipulation in the RFS RIN market? If not, why not? If so, please provide further details and a planned timeline.

As mentioned above, EPA is currently working on a Clean Air Act rulemaking that, among other things, would change certain elements of the RIN compliance system under the RFS program to improve both RIN market transparency and overall functioning of the RIN market. As part of the rule development process we are assessing a wide range of policy options that could be pursued. Our current goal is to issue a proposed rule in early 2019, and in that rule we will provide our assessment of the various approaches that could be taken to help deter market manipulation.

- 28. For Fiscal Years 2018 and 2019, the Administration's budget proposal included plans to dramatically reduce the size of EPA's workforce. When Congress enacted the FY'18 Omnibus in March of this year, it made clear that EPA was to not seek to reduce EPA's workforce through buyouts of other active measures.

- a. As of August 1st, what is the number of full-time employees at EPA?

As of July 30, 2018, EPA had 13,780 full-time employees (this includes permanent and temporary employees).

- b. How does this number compare to the number of FTEs on March 23, 2018, when the Omnibus was signed into law?

As of March 26, 2018, EPA had 13,981 full-time employees (this includes permanent and temporary employees).

- c. If there are fewer EPA FTEs today than there were on March 23, please explain why this is the case.

Due to attrition and hiring lags the number of Agency full-time employees has gone down. In FY 2018, EPA has set an on-board target of 14,172, including temporary and part time employees.

- 29. Congress is currently working to finalize EPA's FY 2019 appropriations. Will you abide by all Congressional directives regarding staffing levels in FY 2019?

We appreciate the attention to our staffing levels under the current federal budget landscape. Our intent is to abide by all Congressional directives.

30. The 2018 Omnibus contained a provision related to reporting requirements under CERCLA for air emissions from animal waste, known as the FARM Act. On April 27th, EPA published guidance on its website entitled "How does the Fair Agricultural Reporting Method Act Impact reporting of air emissions from animal waste under CERCLA Section 103 and EPCRA Section 104?" On May 25, I along with other members of the EPW committee wrote to then-Administrator Pruitt that the information contained in the guidance document was contrary to the clear Congressional intent and legislative history behind the FARM Act. We requested that the guidance be rescinded, and the EPA website be updated accordingly. As of today, this guidance is still online. When do you intend to rescind this guidance?

In November 2018, EPA published a proposed rule for public comment on the agency's interpretation that air emissions from farm animal waste do not need to be reported under EPCRA. The final rule would maintain consistency between the emergency release notification requirements of EPCRA and CERCLA. The agency is actively considering many of the substantive issues raised in your letter throughout the rulemaking process. The guidance is no longer available on EPA's website.

Senator Duckworth:

31. The Renewable Fuel Standard (RFS) includes a provision that requires the Administrator of the Environmental Protection Agency (EPA) to "reset" the renewable volume obligations (RVO) if certain conditions are met.
- a. With regard to this reset authority, can you please explain what would trigger this process and what the authority allows you to do?

The statute specifies the conditions under which this "reset" authority is triggered, which include waivers of the renewable fuel volumes laid out in the statute by more than 50% in one year or more than 20% in two consecutive years. These criteria have been met in the past for both the cellulosic biofuel and advanced biofuel categories in the statute. The proposed renewable fuel volume obligations for 2019, if finalized, would satisfy the reset criteria for the total renewable fuel volume category. The statute requires that EPA undertake a rulemaking to modify the volumes otherwise specified by Congress in the statute for the remaining years (2019-2022) and to complete such rulemaking within one year (e.g., by November 30, 2019).

- b. Do you expect the final 2019 RVOs to trigger the reset process?

The proposed renewable fuel volume obligations for 2019, if finalized, would satisfy the reset criteria for the total renewable fuel volume category.

- c. Do you expect the final 2019 RVOs to trigger the reset process?

The proposed renewable fuel volume obligations for 2019, if finalized, would satisfy the reset criteria for the total renewable fuel volume category.

Senator Fischer:

32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

EPA conducts its analysis of whether a petitioning refinery is experiencing disproportionate economic hardship by evaluating the specific economic and other conditions that may be in play at that refinery, on a case-by-case basis. Each case-by-case evaluation is performed in coordination with DOE. For additional information on the DOE studies that define “disproportionate economic hardship” and the process for evaluating each petitioning facility, please visit the following website: <https://www.epa.gov/renewable-fuel-standard-program/small-refinery-exemption-studies-department-energy>.

Senator Gillibrand:

33. Acting Administrator Wheeler, as you may know, a number of communities in my state of New York have been negatively impacted by the presence of PFOA and PFOS in their drinking water. The residents of Hoosick Falls and Petersburg were consuming water tainted by PFOA from a plastic manufacturing plant in their community. The drinking water supplies in Newburgh and East Hampton are tainted with PFOS from firefighting foam used at Air National Guard bases nearby. I appreciate that the EPA has made addressing these chemicals a priority. I note that, to date, the EPA has conducted community engagement meetings in New Hampshire and Pennsylvania, and has scheduled meetings in Colorado and North Carolina later this month. When will EPA hold a PFAS community engagement meeting in New York State?

The EPA coordinated closely with states and local communities on a series of per- and polyfluoroalkyl substances (PFAS) community engagement events. The locations were selected based on state and community interest as well as logistical considerations related to geographic distribution and timing. Additionally, the EPA worked to ensure the Agency was able to balance the need to take action with the EPA's desire to hear from as many communities as possible.

Community engagements have been held in Exeter, New Hampshire (June 25-26); Horsham, Pennsylvania (July 25); Colorado Springs, Colorado (August 7-8); Fayetteville, North Carolina (August 14); and Leavenworth, Kansas (September 5). The EPA also engaged with tribal representatives at the Tribal Lands and Environment Forum in Spokane, Washington, on August 15.

The EPA appreciates your interest and understands the importance of this issue to New Yorkers. We appreciated the participation of New York's Department of Environmental Conservation and Department of Health in our May 22-23 PFAS National Leadership Summit in Washington, D.C., and the EPA will continue to work with both agencies to address PFAS contamination in New York State.

Also, to ensure that everyone who wanted to provide input to the EPA had the opportunity to do so, the Agency opened a docket for input from the public. This docket is available at <https://www.regulations.gov/docket?D=EPA-HQ-OW-2018-0270>.

34. The EPA's regulations for implementing the recent TSCA reform bill passed by Congress limits the EPA from considering the "legacy uses" of a chemical when deciding whether to regulate it under the TSCA program. Drinking water contamination from a plant that is no longer manufacturing PFOA would be considered a legacy use. Despite Congress's very clear direction, those rules ignore the public's current exposure as a result of the past uses of chemicals. Legacy uses pose risks to public health because the past manufacturing and disposal of those chemicals can still contaminate groundwater, as is currently the case with PFOA in Hoosick Falls, NY. Will you review those implementation rules and direct your staff to revise them to ensure that EPA is considering all potential uses and potential pathways of exposure for these chemicals?

As a general matter, EPA will address in its risk evaluations those uses for which it is known, intended, or reasonably foreseen that the chemical is being manufactured, processed, or distributed (i.e., the use is prospective or on-going). However, as stated in the 2017 final rule *Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act*, in a particular risk evaluation, EPA may consider background exposures from legacy use, associated disposal, and legacy disposal as part of an assessment of aggregate exposure or as a tool to evaluate the risk of exposures resulting from non-legacy uses. For example, EPA's Office of Water has developed health advisories for PFOA and PFOS based on the agency's assessment of peer-reviewed science to provide drinking water system operators, and state,

tribal and local officials who have the primary responsibility for overseeing these systems, with information on the health risks of these chemicals, so they can take the appropriate actions to protect their residents. EPA also has an agency-wide PFAS workgroup developing human health toxicity values for GenX and PFBS, evaluating the current universe of PFAS manufactured and in use, gathering scientific information and undertaking robust public outreach and engagement.

35. Last December, the US Court of Appeals for the 9th Circuit faulted EPA for taking too long to develop new rules updating the outdated lead-based paint and dust-lead hazard standards. The court compelled your agency to take action to propose and finalize a rule. This is critically important in New York, where a special report published by Reuters this past November found 69 New York City census tracts where at least 10 percent of small children had elevated lead levels. While lead paint and dust are not the only factors contributing to these high lead levels, it remains a serious concern for children under the age of 6 years and a major environmental justice concern, particularly for residents of public housing and older buildings.
- a. While the EPA proposed more stringent standards for lead dust in July, it did not propose to lower the standards for lead-based paint, citing lack of sufficient information to support a change. What specific action will you direct EPA staff to take to address that data gap identified in the proposed rule, so that you can make a more informed decision on the definition of lead based paint?

Pursuant to TSCA section 401 (15 U.S.C. 2681(9)), EPA will work with the Department of Housing and Urban Development (HUD) to make any appropriate changes to the definition of lead-based paint. EPA, working with HUD, has identified a number of specific data and information needs to inform consideration of revising the definition of lead-based paint. EPA also solicited input from the public regarding data or information that could be useful in this effort. The public comment period for the proposed rule closed on August 16, 2018, and EPA is now carefully considering all comments and input received, including any data or information that may inform any change to the definition of lead-based paint.

- b. Is the EPA on track to finalize the lead dust rules in compliance with that court order?

Yes, EPA published, in the Federal Register on July 2, 2018, the proposed rule, *Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint* in compliance with the court deadline and EPA is on track to take final action within the timeframe stipulated by the court.

36. Will you commit that, before issuing a certificate of completion for the PCB cleanup of the Hudson River, the EPA will continue to work in close coordination with New York State to fully review and consider sediment samples from the Upper Hudson River, and the supplemental studies of the Lower Hudson River?

EPA is currently working with our state partner, the New York State Department of Environmental Conservation (NYSDEC), to review the results of some 1,800 sediment samples collected by NYSDEC. EPA is working towards developing joint findings on the results of the sampling. EPA will not make any final decisions with respect to whether General Electric has completed its work or about the protectiveness of the work so far until we have completed our review of input from the public and our government partners and completed analyses of data from the samples collected by NYSDEC. The supplemental studies of the Lower Hudson River are ongoing, although they are not tied to certifying completion of remedial action under the consent decree, which is limited to the area defined as the Upper Hudson.

Senator Inhofe:

37. When EPA promulgated the existing Section 111(b) "new source" rules for carbon dioxide, the agency did not adequately contemplate the emerging value of natural gas-fired "Quick Start" Simple Cycle Combustion Turbines (CTs) to maintain the reliability of our nation's electricity grid. Unlike traditional coal-fired and gas-fired electric generation units that take hours to come on line from a cold start, "Quick Start" CTs can achieve full operating capacity in as little as 9 minutes. Consequently, "Quick Start" CT units are uniquely valuable to the nation's power pools to address reliability challenges that commonly occur due to changes in the generation mix. However, the existing EPA 111(b) regulations limit the operation of "new" electric generation plants, including new "quick start" CTs, to less than 40% of their annual operating capacity. This mitigates the ability of power pool operators to call on CTs to respond quickly to unpredictable changes certain types of generation transmitted to the grid. It also restricts the flexibility that these generators and power pool operators need to respond to a variety of other market conditions, including weather-related events or transmission or generation outage events on the grid.

Several industry comments were filed with EPA during the rulemaking that produced the existing 111(b) rule expressing concern about this artificial operating restriction, which was also believed to be overreaching under statute. Given that EPA is working on revising its "new source" regulations affecting utilities under Section 111(b), what regulatory changes could be included in the revision to insure that the existing 111(b) regulations do not needlessly restrict the use of "quick start" CT units to redress reliability challenges to the electric grid?

EPA staff is currently focused on reviewing requirements for new coal-fired EGUs. Those standards are legally contentious and the subject of multiple petitions for review. EPA conducted an extensive analysis of the role of “quick start” aeroderivative simple cycle combustion turbines as part of the Section 111(b) GHG NSPS for EGUs. The requirements for combustion turbines were a balance of providing sufficient flexibility to account for potential future changes to the electric grid, affordability, achievability, not artificially distorting the electricity market, or providing perverse incentives to increase GHG emissions. While no petitions were filed on the standards for combustion turbines, EPA staff continues to monitor the operation of EGUs to determine if the role of new high efficiency “quick start” aeroderivative simple cycle combustion turbines in the electricity market has changed sufficiently since 2015 to warrant revising the current standards.

38. From 2009 through 2015, the General Electric Company conducted one of the largest environmental cleanup projects in U.S. history, dredging about 40 miles of the Hudson River to remove PCBs. EPA developed an aggressive plan to remove most of those PCBs, deciding on the appropriate scope of the removal to realize the strongest environmental outcomes over time. GE spent almost \$2 billion implementing that plan and removed almost twice the amount of PCBs originally estimated, and EPA lauded the efforts as an “historic accomplishment.” On December 23, 2016, GE submitted a completion report outlining all of the steps the company took to complete the plan and asking EPA to certify that the project is complete, in accordance with a 2005 Consent Decree signed by GE and the EPA. In that Consent Decree, EPA agreed to grant a Certification of Completion within 1 year of GE’s submission of the completion report. It is now seven months past the deadline, yet the agency has not issued a certification of completion.
 - a. Will you decide GE’s certification of completion based on the specific criteria set forth in the consent decree?
 - b. When can we expect EPA will make the decision on the certification of completion?

EPA will comply with the Consent Decree for the Hudson River PCBs Site in deciding whether to provide the Certification of Completion of the Remedial Action to General Electric. The Consent Decree states:

**If EPA concludes, based on the initial or any subsequent report requesting Certification of Completion of the Remedial Action and after a reasonable opportunity for review and comment by the State and by the Federal Trustees for Natural Resources, that the Remedial Action has been performed in accordance with this Consent Decree, EPA will so certify in writing to [General Electric]. This certification shall constitute the Certification of Completion of the Remedial Action....
(Consent Decree, paragraph. 57.d)**

The Consent Decree defines Remedial Action as “those activities, except for Remedial Design and Operation, Maintenance and Monitoring, to be undertaken to implement the [2002 Record of Decision], in accordance with the [Statement of Work], the final Remedial Design plans and reports, the Remedial Action Work Plans, and other plans approved by EPA.” (Consent Decree, paragraph 4).

General Electric (GE) has informed EPA that it believes that it completed the Remedial Action portion of the cleanup as required by the Consent Decree and has requested EPA’s Certification of Completion of the Remedial Action. EPA is reviewing input from the New York State Department of Environmental Conservation (NYSDEC), including results of some 1,800 sediment samples it collected, the National Oceanic and Atmospheric Administration, the U.S. Fish & Wildlife Service, and the New York State Attorney General’s office as it considers GE’s request. EPA will not make any final decisions with respect to whether GE has completed the Remedial Action or about the protectiveness of the work so far until we have completed our review of input received from the public and our government partners and completed analyses of data from the samples collected by NYSDEC.

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

An action to address the treatment of biogenic CO2 emissions in the context of Clean Air Act permitting is currently under development. In the 2018 Fall Unified Agenda of Federal Regulatory and Deregulatory Actions, we noted that this was a long term action, with a date for a proposed rule to be determined.

40. It is my understanding that IRIS is not a statutorily mandated program and that IRIS assessments have no direct regulatory impact until they are combined with other information by EPA’s program offices. Currently, EPA has regulations in place managing exposures to formaldehyde.
- a. Is there a need or added benefit, then to developing this assessment?

The IRIS program is a mechanism to implement the risk assessment requirements contained in a variety of environmental statutes. Therefore, the authority for the IRIS Program’s mission of developing of human health assessments that evaluate potential health effects that may result from exposure to environmental contaminants is contained in the relevant research and risk assessment requirements within statutes governing the Environmental Protection Agency. ORD is currently developing a new approach of soliciting program input on current and future IRIS

assessments, to ensure IRIS assessment activities are focused on the highest priority needs. The formaldehyde assessment will be included in this activity, which will inform our next steps.

- b. If so, what higher priority assessments could be prioritized instead?

See answer to 40a.

- c. Are there any program offices that have a regulatory need for a revised formaldehyde IRIS assessment to inform ongoing or pending Agency action? If so, please provide the specific program offices and the specific Agency action.

See answer to 40a.

41. The National Academies was highly critical of EPA's last public draft IRIS formaldehyde assessment. Based on recent leaks to the media, it appears that the conclusions in the current unreleased draft assessment have not changed even though published science supports that formaldehyde does not cause leukemia and that safe thresholds for exposure exist.

- a. With new science and credible criticisms by the National Academies, will EPA not modify its assessment?

Any IRIS assessment would consider all relevant scientific information – for formaldehyde that would include considering all science which has been published since the release of the NAS report. In addition, any revised assessment for formaldehyde would address all the recommendations from the 2011 NAS report. More broadly, IRIS has been incorporating principles of systematic review into the assessment development process in response to the recommendations from the 2011 and 2014 NAS reports.

- b. Will you review and integrate all science published since the release of the 2010 draft IRIS assessment has been reviewed and integrated into any revised draft?

Yes, any development of a draft formaldehyde assessment would carefully review and consider new, peer-reviewed science as it becomes available. A new draft IRIS assessment would consider and incorporate this information, as appropriate, to ensure that the assessment reflects the state-of-the-science on any chemical, including formaldehyde.

42. EPA's previous draft IRIS formaldehyde assessment suggested that human breath might pose an unacceptable risk of cancer. Given that the human body naturally produces formaldehyde, this does not seem reasonable or realistic. Will you ensure that IRIS values reflect real life human exposure scenarios and include a reality check as recommended by the National Academies?

IRIS assessments address the first two steps of the risk assessment process, hazard identification and dose-response. EPA program and regional offices estimate the amount of human exposure under different exposure scenarios. The exposure information developed by the Agency is combined with the toxicity values developed by the IRIS program to characterize the potential public health risks of a chemical. Any updated assessment would reflect all comments received by the 2011 NAS report.

43. Given the recent media attention around the EPA's draft IRIS formaldehyde assessment and the appearance that the Agency is circumventing its own peer review process by releasing unvetted conclusions to the media, would you consider:
- Identifying a small panel of independent 3rd party scientists to review the revised draft IRIS assessment and provide you input on its scientific rigor before it is released for public review?

EPA will follow the 7-step process established for IRIS assessments, which includes an independent peer review process.

- Identifying an independent 3rd party arbiter to confirm that all 2011 and 2014 NAS recommendations are fully and adequately resolved before the IRIS assessment is finalized?

EPA has been moving forward to ensure that both programmatic and assessment-specific recommendations are being addressed by the IRIS Program. These advances were most recently presented to the NAS in February 2018, and the ensuing report by the National Academies, building on the recommendations in the 2014 report, concluded that EPA had made substantial progress. Any future IRIS assessments would consider and address all recommendations from the NAS 2011 report.

Senator Markey:

44. Formaldehyde is a toxic carcinogen widely used in everything from furniture to lotion. During the last administration, EPA scientists began an analysis of the human health impacts of formaldehyde that I understand has been completed for over a year. When Pruitt was here in January, I asked him about this scientific analysis, which he admitted was completed. However, despite the desire by EPA staff to make this critical analysis

available for public review, lobbying by special interest groups who have a stake in suppressing information about formaldehyde's dangerous impacts met a friendly and abiding audience with Mr. Pruitt. I, and several members of this committee, are significantly concerned about this attempt to silence scientists and scientific data under the last Administrator.

- a. At this month's hearing, you refused to say when you would publicly release EPA's formaldehyde assessment for peer review. Will you now commit to publicly release this report, without any additional political interference, within the next thirty days?

ORD is currently developing a new approach of soliciting program input on current and future IRIS assessments, to ensure IRIS assessment activities are focused on the highest priority needs. The formaldehyde assessment would be included in this activity, which will inform our next steps.

45. The EPA is a pivotal player in our national fight against toxic substances and has historically worked to protect the public from the health risks posed by unsafe chemicals. Last year, on a bipartisan basis, Congress worked to enact reforms to the Toxic Substances Control Act (TSCA) intended to, among other things, significantly strengthen new chemical reviews. These changes made as a part of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, have been significantly weakened by this administration.

For example, the EPA now appears to no longer release the results of its initial reviews of new chemicals or new uses of existing chemicals that identify risk concerns or data gaps.⁷ Under previous administrations going back decades, the EPA would provide public notice of its initial recommendations that new chemicals be determined to be "not likely to present an unreasonable risk"; that they would or could present an "unreasonable risk of injury"; that they lacked sufficient information to conduct a reasoned evaluation; or that further review was needed. An EPA presentation dated December 6, 2017 noted that the agency was developing "revised terminology."⁸ Now, rather than publish these interim statuses, the EPA is only informing the public that a "Focus Meeting Occurred,"⁹ and is not communicating the recommendations of its professional staff made at that meeting. The EPA appears to have stopped providing this information to the public, despite the agency's continued interim and final decision-making on dozens of new chemicals each month. This information was invaluable to the public in ensuring the

⁷ Hiar, Corbin. "At Trump's EPA, one-public chemical safety reviews go dark." E&E News, January 20, 2018.

<http://www.sciencemag.org/news/2018/01/trump-s-epa-once-public-chemical-safety-reviews-go-dark>

⁸ Environmental Protection Agency, "Other Advance Questions" Presentation by Tanya Hodge Mottle, Acting Deputy Director of Programs, U.S. EPA Office of Pollution Prevention and Toxics, December 6, 2017. As found on January 17, 2018 at https://www.eenews.net/assets/2018/01/10/document_gw_04.pdf

⁹ Environmental Protection Agency, "Review New Chemicals under the Toxic Substances Control Act (TSCA): Premanufacture Notices (PMNs) and Significant New Use Notices (SMUNs) Table." As found on January 17, 2018 at <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tscapremanufacture-notices-pmn-and-smun>

accountability of EPA judgments as to whether new chemicals will be safe when they enter the market. While there may be legitimate reasons for the amelioration of initial concerns about a new chemical by the time the EPA makes a final decision on it, transparency and good governance warrant the EPA explaining to the public the steps it took to remove the concern—not to hide from the public any evidence of the EPA’s initial concern.

- a. Can you provide examples of the “confusion”¹⁰ that the EPA alleges was produced by providing the public with the interim statuses? Please provide any documentation or communications between EPA staff and the public that evidence this confusion.

Prior to amended TSCA, EPA posted the interim status, but not the final status for cases that had gone through the multidisciplinary Focus meeting. EPA continued this approach for a short time after the passage of the TSCA amendments. However, in certain cases, a submitter provided additional information for EPA to consider after the Focus meeting occurred and after the interim status was posted. Following EPA’s review of the new information, the recommended determination listed in the interim status may have differed from the final determination. These changes were leading to confusion among our stakeholders.

- b. Please provide an explanation as to how the new terminology was developed, including any meetings held (and related documentation) on the topic and how the new terminology will better protect public health?

EPA temporarily stopped posting the interim status for PMN/SNUN/MCAN cases until language could be discussed with the Office of General Counsel and senior management. This was discussed at the December 6, 2017, new chemicals public meeting. In mid-December 2017, it was decided that the best approach would be to inform submitters that their case had made it to the Focus stage as the interim status and the final status should be the only determination listed in the table. Since early January, the interim status now simply notes that a case was considered at the Focus meeting and the date of the meeting. This change was made to be consistent with the fact that if the intended conditions of use in a PMN submission raise risk concerns, and the submitter makes a timely amendment to address those concerns, EPA will consider the conditions of use in those amended submissions. The tables are current for all cases that have been discussed at a Focus meeting and will continue to be updated on a weekly basis.

¹⁰ Environmental Protection Agency, “Other Advance Questions” Presentation by Tanya Hodge Mottle, Acting Deputy Director of Programs, U.S. EPA Office of Pollution Prevention and Toxics. December 6, 2017. As found on January 17, 2018 at https://www.epa.gov/asset/2018/01/10/document_gw_04.pdf

- c. Can you commit to updating the public with more information on potentially hazardous chemicals or presumed safe chemicals, beyond simply stating that a focus meeting has occurred? Please include in your response the type of information the EPA could provide to improve transparency into this process and a date by when this change will take place.

EPA is committed to providing the public timely and accurate information on the status of its safety reviews of pre-manufacture notices (PMNs) for new chemicals submitted by industry under section 5 of the Toxic Substances Control Act (TSCA), as amended. For example, the Agency posts weekly statistics on the EPA web site to reflect the numbers and types of new chemicals cases under review, the number of completed reviews, and the determinations made to date. (See <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>).

In addition, the Agency has provided a case-specific table where submitters and others can look up individual new chemical submissions to see the current status of the review and, when complete, a final status. The table includes hyperlinks to the publicly available final determination documents. Cases are added to the table once they pass the multi-disciplinary team risk characterization meeting called the Focus meeting.

46. Under your leadership, the EPA has indefinitely delayed finalizing its proposed bans on high-risk uses of methylene chloride, N-methylpyrrolidone, and trichloroethylene.^{11,12} The 2016 Lautenberg Act specifically authorized the EPA to pursue needed restrictions on these chemicals. The law allowed for prioritized action on high-risk uses of these chemicals—which the EPA has declared to present unreasonable risk. Dozens of deaths have been linked to methylene chloride-based paint strippers, and agency experts have noted connections between trichloroethylene and developmental damage. Trichloroethylene was one of the chemicals found in the water around Camp Lejeune, a Marine base in North Carolina. Potentially 900,000 service members were exposed to this dangerous chemical, which causes cancer and is linked to fetal cardiac defects.¹³

¹¹ Kaplan, Sheila. "E.P.A. Delays Bans on Uses of Hazardous Chemicals." New York Times, December 19, 2017. <https://www.nytimes.com/2017/12/19/health/epa-toxic-chemicals.html>

¹² Environmental Protection Agency, "New Chemicals Decision-Making Framework: Working Approach to Making Determinations under Section 5 of TSCA." November 2017. As found on January 17, 2018 at https://www.epa.gov/sites/production/files/2017-11/documents/new_chemicals_decision_framework_7_november_2017.pdf

¹³ Agency for Toxic Substances and Disease Registry. "Camp Lejeune. North Carolina: Health effects linked with trichloroethylene (TCE), tetrachloroethylene (PCE), benzene, and vinyl chloride exposure." April 11, 2017. As found on January 17, 2018 at https://www.atsdr.cdc.gov/sites/lejeune/tce_pce.html

- a. Can you provide a detailed justification for the indefinite delay of the proposed bans for high-risk uses of methylene chloride, N-methylpyrrolidone, and trichloroethylene?

EPA is continuing to work expeditiously on this rule and on making sure that it is fully consistent with the new risk management provisions of the Frank R. Lautenberg Chemical Safety Act.

EPA is evaluating identified uses of MC, , trichloroethylene (TCE), and N-methylpyrrolidone (NMP) as part of the first ten chemicals undergoing chemical risk evaluations under amended TSCA. These evaluations will be completed in accordance with statutory timelines.

While EPA is not precluded from finalizing proposed regulations based on risk evaluations conducted before enactment of amendments to TSCA, EPA has concluded that the Agency's previous assessments of the potential risks from TCE and NMP will be more robust if the potential risks from these conditions of use are evaluated by applying standards and guidance under amended TSCA.

- b. Was Michael Dourson involved in any capacity on the evaluation of trichloroethylene while he was working as an EPA advisor? If so, please detail and provide any written documents of his work, including any memos, meeting notes, or other correspondence.

Dr. Dourson, along with other Senior Leaders new to the Agency, was briefed (provided a synopsis) on the content and conduct of the risk assessment for trichloroethylene that EPA completed in 2015. This meeting was informational and did not include solicitation or nor providing of advice or direction related to evaluation.

Also, under the previous administration, the EPA had proposed to ban the use of the chlorpyrifos, a neurotoxic pesticide used on a variety of fruits and vegetables.¹⁴ Residential and indoor use of chlorpyrifos was banned in 2000.¹⁵ However, you opted to reject the EPA's earlier findings and deny the petition to ban the use of chlorpyrifos,¹⁶ despite the EPA analyses that found widespread risk from pesticide residues, drinking water contamination, and drift. Chlorpyrifos has been linked to neurological damage, with children particularly at risk for learning disabilities.

¹⁴ New York Times, "EPA's Decision Not to Ban Chlorpyrifos." October 21, 2017.

<https://www.nytimes.com/interactive/2017/10/21/us/document-EPA-Chlorpyrifos-FOIA-emails-to-NYT.html>

¹⁵ Environmental Protection Agency, "Dursban Announcement" Archived Speech by Carol M. Browner, June 8, 2000. As found on January 17, 2018 at <http://archive.is/ANPup#selection-803,0-819,477>

¹⁶ Environmental Protection Agency, "News Release: EPA Administrator Pruitt Denies Petition to Ban Widely Used Pesticide." March 29, 2017. As found on January 17, 2018 at <http://archive.is/XAUUw>

- c. Can you provide a detailed explanation of why the EPA chose to refute earlier analyses performed by Science Advisory Panels, including those done in 2016,¹⁷ 2012,¹⁸ and 2008¹⁹, which provided independent scientific review and reaffirmed the health risks connected with chlorpyrifos exposure? Please include any and all new studies, or analyses, performed since the November 2016 Human Health Risk Assessment that provide the basis for this decision.

Over the course of several years, the FIFRA Scientific Advisory Panel provided numerous recommendations for additional study, and sometimes conflicting advice, for how EPA should consider (or not consider) the epidemiology data in conducting EPA's human health risk assessment for chlorpyrifos. Comments received in response to EPA's proposed rule demonstrate that the science on this question is not completely resolved. EPA is conducting a full and appropriate review of all of the neurodevelopmental data.

- d. Can you provide a detailed timeline for the "ongoing registration review"²⁰ that the agency is performing to continue its evaluation of the risks of chlorpyrifos, despite the body of evidence previously collected by EPA researchers?

EPA must complete registration review by October 1, 2022, for all pesticides registered as of October 1, 2007. EPA continues to work to obtain access to original datasets that should allow the EPA to sufficiently address concerns around the use of certain studies in risk assessment, and move forward with its decision for the registration review of chlorpyrifos.

- e. Can you provide the times and dates of every meeting and any relevant communication that you or your senior administration officials had regarding chlorpyrifos or toxic chemical standards, including with employees of or lobbyists working on behalf of Dow Chemical, the American Chemistry Council, the American Farm Bureau, or CropLife America?

¹⁷ Environmental Protection Agency, "Memorandum on Meeting Minutes of the April 19-21 2016 FIFRA SAP Meeting Held to Consider and Review Scientific Issues Associated with "Chlorpyrifos: Analysis of Biomonitoring Data." July 20, 2016. As found at https://www.epa.gov/sites/production/files/2016-07/documents/chlorpyrifos_sap_april_2016_final_minutes.pdf

¹⁸ Environmental Protection Agency, "Memorandum on Meeting Minutes of the FIFRA Scientific Advisory Panel Meeting held April 10-12, 2012 on "Chlorpyrifos Health Effects." As found on January 17, 2018 at <https://www.epa.gov/sites/production/files/2015-06/documents/041012minutes.pdf>

¹⁹ Environmental Protection Agency, "Memorandum: Transmittal of Meeting Minutes of the FIFRA Scientific Advisory Panel Meeting held September 16-18, 2008 on the Agency's Evaluation of the Toxicity Profile of Chlorpyrifos." December 17, 2008. As found on Regulations.gov on January 17, 2018 at <https://www.regulations.gov/document?D=EPA-HQ-OIP-2008-0274-0064>

²⁰ Environmental Protection Agency, "Revised Human Health Risks Assessment on Chlorpyrifos." As found on January 17, 2018 at <https://www.epa.gov/ingredients-used-pesticide-products/revised-human-health-risk-assessment-chlorpyrifos>

Making a final decision on whether chlorpyrifos meets the safety standards under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food Drug and Cosmetic Act is an important priority for the EPA. We would like to work with your staff to better understand the scope of this information request so that the agency can provide the information you are seeking.

47. Environmental protection requires the use of sound science. The EPA's own mission states that "national efforts to reduce environmental risks are based on the best available scientific information." Science is the beating heart of the EPA's work. You can imagine my concern in April when former Administrator Scott Pruitt proposed a "secret science" rule—or more properly named "censoring science." Because this proposal would prevent the EPA from using scientific studies that include data that aren't publicly available.

If the EPA can't use public health studies that include confidential participant data, it will not be able to properly implement numerous environmental laws under EPA's jurisdiction, like the Clean Air Act which requires the use of the best available science for implementation. Under the Administrative Procedure Act, the EPA cannot refuse to consider any comment submitted to the agency—including scientific findings based on confidential data. This proposed "censored science" rule allows for such refusal, and it wouldn't hold up in court.

- a. Will you commit to withdrawing then-Secretary Pruitt's proposed "censored science" rule, which is a violation of numerous laws?

EPA has started reviewing the more than 500,000 comments received on the proposed Strengthening Transparency in EPA Science rule. EPA will be reviewing these comments through the fall. EPA will determine a timeline for a decision after it has more fully assessed the comments.

It appears that EPA staff have been dissuaded from communicating to the public and to other scientists about climate risks. In October 2017, an EPA scientist, research fellow, and consultant withdrew from planned speeches at a workshop about the health of the Narragansett Bay and Watershed. Though former Administrator Pruitt responded to the October 31, 2017 letter sent by New England members of Congress expressing our concern, that reply was vague.²¹ In this response letter, it was indicated that "[p]rocedures have been put in place to prevent such an occurrence in the future." When another set of follow-up questions was asked to clarify that statement, the answers provided on May 10, 2018 were incomplete.

²¹ "Response Letter from the Environmental Protection Agency on the Narragansett Bay Estuary Program," December 4, 2017, <https://www.whitehouse.gov/the-press-office/2017/12/04/eopa-response-to-narragansett-bay-estuary-program>

- b. What are the exact procedures put in place to ensure that EPA scientists continue to be able to speak at public events about climate science?
- c. How have you evaluated whether these new procedures are successful and staff are not discouraged from participating in similar scientific forums? If no evaluation has been made, why not?

EPA has one of the strongest Scientific Integrity policies and one of the most robust Scientific Integrity training programs in the federal government. EPA's Scientific Integrity Policy doesn't just apply to EPA scientists; it applies to all EPA employees, including scientists, managers, political appointees, and other staff. EPA regularly makes improvements to its Scientific Integrity program to make it even stronger. You can read more about this policy at [epa.gov/osa/basic-information-about-scientific-integrity](https://www.epa.gov/osa/basic-information-about-scientific-integrity).

I am committed to upholding EPA's Scientific Integrity Policy, which ensures that the Agency's scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference. The policy recognizes the distinction between scientific information, analyses, and results from policy decisions based on that scientific information. Policy makers within the Agency weigh the best available science, along with additional factors such as practicality, economics, and societal impact, when making policy decisions.

48. The EPA Strategic Plan for FY 2018 through 2022, finalized in February 2018, does not contain a single mention of climate change, despite the major threats that it poses to public health and the economy—threats that will only continue to increase during the next five years.²²
- a. Why was climate change not included in the EPA's draft strategic plan for 2018-2022?
 - b. Were EPA political appointees involved in writing the draft strategic plan? If so, what role did political appointees play in creating this document, and did any political appointee remove any reference to climate change?

Strategic plans are drafted every five years to reflect new initiatives and projects of the Agency. Naturally the plan will be reflective of the current administration's priorities of refocusing the Agency on its core mission, and leading the Agency through improved processes and adherence to the rule of law.

49. The EPA's staff of dedicated researchers and scientists have worked hard to present the most accurate climate change data and information to the American public. This information is critical to illustrate what climate change is, why it matters, and what the EPA is doing to confront its effects. It is also a central component of the EPA's mission

²² Environmental Protection Agency, *Strategic Plan for FY 2018-2022*. <https://www.epa.gov/planandbudget/fy-2018-2022-epa-strategic-plan>

statement, which declares that the EPA should work to ensure that “all parts of society – communities, individuals, businesses, and state, local and tribal governments – have access to accurate information sufficient to effectively participate in managing human health and environmental risks.”²³

Unfortunately, outside groups and news organizations have documented a complete overhaul of the EPA’s website that resulted in relevant climate change data and information being hidden from the general public or removed entirely. The Environmental Data and Governance Initiative issued a report on January 10, 2018 that documented the removal of more than 200 climate-related pages from the EPA website.²⁴ On April 28, 2017, the EPA removed the content of its main informational webpage²⁵ on climate change, which had existed in some form since at least 1997, and replaced it with a page that states, “We are currently updating our website to reflect EPA’s priorities under the leadership of President Trump and Administrator Pruitt.”²⁶ The American public is entitled to have easily accessible and factual information regarding climate change—something the EPA is uniquely positioned to provide.

- a. Can you please provide a list of the specific changes to the climate change webpage, and justification for how each will “reflect EPA’s priorities under President Trump and Administrator Pruitt,” what they will entail?
- b. On what date will the climate change webpage will be reposted on EPA’s website?
- c. Please explain how, under the current EPA since Administrator Pruitt’s departure, the removal of climate change science fits under the Administration’s set of priorities?
- d. Were any EPA political appointees involved in discussions and/or development of recommendations to remove EPA webpages on climate change? Who was responsible for authorizing the removal of EPA webpages on climate change?
- e. Were any EPA career scientists or authors of the reports on climate change involved in discussions regarding the decision to remove EPA webpages on climate change or the decision itself? If not, why not?
- f. How does the EPA and its communications team handle discussion and mention of climate change in the EPA’s social media and other public-facing communications? Have EPA staff or other personnel been instructed to not use the term “climate change” in social media posts? If so, was this decision made by EPA political staff? When was this decision finalized and announced to staff?

²³ Environmental Protection Agency, “Our Mission and What We Do” as visited on January 17, 2018.

<https://www.epa.gov/aboutepa/our-mission-and-what-we-do>

²⁴ Environmental Governance and Data Initiative, “Changing the Digital Climate: How Climate Change Web Content is Being Censored under the Trump Administration,” January 2018. <https://envirodatagov.org/wp-content/uploads/2018/01/Part-3-Changing-the-Digital-Climate.pdf>

²⁵ Environmental Protection Agency, “Climate Change” Main Webpage, Historical Material and Snapshot of January 19, 2017. https://19january2017snapshot.epa.gov/climatechange_.html

²⁶ Environmental Protection Agency, “This page is being updated.” As visited on January 17, 2018.

<https://www.epa.gov/sites/production/files/signpost/cc.html>

EPA is continually making changes to its website and other digital information resources to reflect and support the agency's current priorities and work. When we move information from our main portal, www.epa.gov, the majority of the time we make sure it is still available to the public via our archive website, <https://archive.epa.gov/>. In addition, because of the public concern about access to information on our website last year, as well as the receipt of a number of FOIA requests for access to information, we created a snapshot website that contains the content that was on our main portal on January 12, 2017. The snapshot website can be searched here: <https://19january2017snapshot.epa.gov/>.

50. Each year, over 100 million tons of coal ash, laden with numerous toxic chemicals like arsenic, cobalt, and lithium, are produced when coal is burned. This past March, coal plants were required for the first time to publicly post groundwater monitoring data. A preliminary analysis of that data has found that ninety-two percent of sampled groundwater sites had unsafe levels of at least one toxic contaminant.

- a. Mr. Wheeler, can you commit that the EPA will review all of the significant and concerning data at hundreds of existing coal ash sites as reported earlier this year before moving forward to weaken the 2015 rule that protects the health of Americans?

Over the past few months, EPA has been actively reviewing the posted groundwater monitoring data and the agency remains committed to reviewing the available data in the coming months. Furthermore, EPA will consider the facility-reported groundwater monitoring data as it considers any additional amendments to the 2015 CCR rule.

51. Late last April, former EPA Administrator Scott Pruitt announced that the EPA will reconsider its methane emissions rule set by the last administration that aimed to combat climate change and protect public health, and simultaneously stated that during the "reconsideration process," the EPA would place a 90-day stay on oil and gas companies' compliance with the rule. Methane is the second-biggest driver of climate change after carbon dioxide. Even though the D.C. Circuit Court of Appeals ruled 2-1 against the EPA's suspension of the rule, the EPA's rationale for pursuing this issue still raises significant questions.

- a. What are the existing regulations that would curb the leaking of methane and other harmful pollutants without this rule?

The 2016 New Source Performance Standards (NSPS) built on requirements of a 2012 NSPS to reduce emissions of volatile organic compounds. The 2016 rule added requirements that the oil and natural gas industry reduce emissions of greenhouse gases. It did this through an emissions limit for methane. The updated rule also covered additional sources in the sector that were not covered in the 2012 rule. After the final rule was issued, EPA received administrative petitions seeking reconsideration of various aspects of the 2016 NSPS, as well as several petitions for judicial review of the rule. As you are aware, EPA granted reconsideration of the rule in 2017. As part of the reconsideration process, EPA has been considering comments we received on stays to the NSPS that we proposed last summer, along with comments on notices of data availability. In March of this year, we made narrow final changes to the rule based on those comments, to address two aspects of the rule that posed significant and immediate compliance concerns. For the remainder of the reconsideration of the rule, we have been focused on two broad areas:

- One covers technical issues identified in petitions for reconsideration on the 2016 NSPS. On October 15, 2018, we proposed this technical package. The comment period closed on December 17, 2018. We held a public hearing for the proposed rule in Denver on November 14, 2018.
- The other area is more policy focused, including the issue of regulating greenhouse gases for the oil and gas sector. We anticipate releasing a proposed rule in the coming months.

52. On August 15, you said that the EPA will prioritize communication with vulnerable communities about environmental contamination and exposure to hazardous substances. However, on April 27, 2018, the EPA issued guidance that stated animal waste emissions do not need to be reported under the Emergency Planning and Community Right-to-Know Act (EPCRA), as they were exempted from being reported under the Comprehensive Environmental Response, Compensation, and Liability Act through the Consolidated Appropriations Act of 2018.

- a. How does EPA's move to exempt extremely hazardous substances released by animal agriculture operations from being reported under EPCRA further your stated priority of ensuring that communities know when they are being exposed to hazardous substances?

The April 27, 2018, Q&A explains EPA's interpretation of the relationship between the CERCLA and EPCRA statutory release reporting requirements and is consistent with the agency's prior statements interpreting EPCRA section 304(a)(2), as well as the agency's prior regulatory actions. *See, e.g.*, 52 Fed. Reg. 13,378 (Apr. 22, 1987).

- b. Can you commit to responding within the next two weeks to the letter sent by all the Democrats of the Committee on Environment and Public Works concerning this guidance on May 25, 2018?

See attached letter.

53. On May 22, 2017, former Administrator Scott Pruitt created a Superfund Task Force, which was made up of 107 EPA employees²⁷ and headed by Albert Kelly,²⁸ a senior advisor and former bank executive with no experience in pollution cleanup, who was recently banned from participating in banking activity by the Federal Deposit Insurance Corporation for unspecified violations.²⁹ The Task Force's recommendations³⁰ include no mention of considerations that should be made to Superfund sites in areas prone to flooding or sea-level rise. According to an Associated Press analysis, 327 Superfund sites are vulnerable to flooding or climate-change-related sea-level rise, and 2 million people live within a mile of these sites.³¹ The damage done during the most recent hurricane season emphasizes the need for the EPA to seriously consider how to address both the threat of flooding and how flooding will get worse as sea levels continue to rise.

Although the 2014 Climate Change Adaptation Implementation Plan³² instructed cleanup managers of toxic sites to prepare for extreme rain, higher floods, and more intense hurricanes, and recommended that the EPA work to protect people from an increased risk of toxic chemical releases, this report was removed from the EPA website following President Trump's election.³³ It is therefore unclear what guidance is being provided to the public and stakeholders at Superfund sites regarding the threats posed by climate change and how these threats may change prioritization, assessments, cleanup, and other actions at these sites.

²⁷ Public Employees for Environmental Responsibility. "Pruitt Superfund Plan Leaves No Fingerprints." Posted on December 20, 2017. <https://www.peeer.org/news/news-releases/pruitt-superfund-plans-leave-no-paper-trail.html>

²⁸ Environmental Protection Agency. "EPA Announces Superfund Task Force Recommendations: Recommendations to Streamline and Improve the Superfund Program." As visited on January 17, 2018. <https://www.epa.gov/newsreleases/epa-announces-superfund-task-force-recommendations>

²⁹ Federal Deposit Insurance Corporation. "Order of Prohibition from Further Participation" delivered to Albert Kelly. July 27, 2017. https://www.cenews.net/assets/2017/08/28/document_gw_10.pdf

³⁰ Environmental Protection Agency. "Superfund Task Force Recommendations." July 25, 2017. https://www.epa.gov/sites/production/files/2017-07/documents/superfund_task_force_report.pdf

³¹ Dearn, Jason, Michael Biesecker and Angeliki Kastanis. "AP finds climate change risk for 327 toxic Superfund sites." Associated Press. December 22, 2017. <http://www.chicagotribune.com/lifestyles/pets/sns-bc-bc-us--flood-prone-toxic-sites-20171222-story.html>

³² Environmental Protection Agency, Office of Solid Waste and Emergency Response, "Climate Change Adaptation Implementation Plan." June 2014. As found on January 17, 2018 at <https://www.documentcloud.org/documents/40509954-EPA-Superfund-Climate-Adaptation-Report.html>

³³ Hersher, Rebecca. "An Absent EPA Climate Report, and a Tale of Two Flooded Superfund Sites." National Public Radio, September 29, 2017. <https://www.npr.org/sections/thetwo-way/2017/09/29/553696314/an-absent-epa-climate-report-and-a-tale-of-two-flooded-superfund-sites>

On December 4, 2017, a group of ten Senators requested an investigation from the Government Accountability Office (GAO) into the risks posed by natural disasters to Superfund sites and how the federal government can mitigate those risks.³⁴ However, the EPA should be working to address this concern immediately. At least two Superfund sites were severely flooded during Hurricane Harvey, neither of which had finalized cleanup agreements in place, and one of which resulted in the release of high levels of hazardous dioxins.³⁵

- a. Please provide us with the EPA's specific plan to prioritize and respond to the 327 Superfund sites that are threatened by rising seas from a warming climate. If the EPA does not currently have a plan, please provide a timeline by when one can be expected.

Since the inception of the program, Superfund remedy selection has considered durability and resilience of remedial designs to extreme weather events and site conditions. In 2014, EPA identified specific key actions to implement over the next several years to address climate change at National Priorities List sites. The plan includes technical guidance, information tools, and training to raise stakeholder awareness of considerations for ensuring remedy resilience. These guidance documents remain in effect. A key stakeholder group is EPA's remedial project managers. The Superfund program's climate change adaptation efforts are summarized and posted on EPA's website: <https://www.epa.gov/superfund/superfund-climate-change-adaptation>.

The 2014 actions that EPA identified were informed, in part, by the agency's Superfund remedy vulnerability analysis undertaken in 2011-2012, which resulted in an internal 2012 report, *Adaptation of Superfund Remediation to Climate Change* (EPA, 2012). This analysis (shared with AP under a FOIA request in August 2017) considered to what degree Superfund National Priorities List and Superfund Alternative Approach sites were vulnerable to flooding and sea-level rise. In the analysis, EPA identified case study candidate sites to use for assessing how project managers evaluated and responded to climate change's effects on Superfund remedial actions.

- b. How is the EPA's Superfund program working to reduce risks from flooding and managing an increase in future risks from sea-level rise?

³⁴ Letter to the Comptroller General of the United States, Government Accountability Office, December 4, 2017. https://www.harris.senate.gov/imo/media/doc/GAO_Superfund_CC_Letter_Final.pdf

³⁵ Environmental Protection Agency, "EPA Statement – San Jacinto River Waste Pits Superfund Site Data," September 28, 2017. As found on January 17, 2018 at <https://www.epa.gov/new-releases/epa-statement-san-jacinto-river-waste-pits-superfund-site-data>

The Superfund remedial program's climate change adaptation efforts include: training remedial project managers; providing adaptation tools; capturing and sharing best practices to ensure vulnerability assessments are conducted as needed; and ensuring that conceptual site models, remedy system designs and operations, and National Priorities List site remedies all reflect consideration of resiliency measures.

- c. What lessons were learned from the flooding at two Superfund sites in Texas during Hurricane Harvey and the release of dioxins from the San Jacinto Waste Pits Superfund site?

Hurricane Harvey presented a number of challenges for protecting Superfund sites along the Gulf coast. The hurricane, which produced record rainfall and flooding in Harris County, Texas, required both pre-event planning and post-event response work. EPA employed many past practices in response to Hurricane Harvey; however, our experience underscored the need for several important actions:

- Undertake advance site preparation; it is key for large-scale tropical events. Generally, advance warnings are available for tropical storms and hurricanes allowing for site security measures to be conducted in advance. EPA project managers contact the site's responsible entity (e.g., EPA contractor, private responsible party, state or tribal agency) and request implementation of appropriate actions to secure the site.
- Conduct post-storm site assessments as soon as safely possible. Using the available site information, a site-specific site assessment needs to be performed immediately upon safe site access. Depending on the site conditions, additional investigations, including soil or water sampling, may be necessary.
- Maintain clear communication with the surrounding communities. It is important to quickly share information regarding the status of a Superfund site with the community to effectively alleviate public health concerns.

Hurricane Harvey's flood waters heavily affected the San Jacinto Superfund site; and several days passed before the water had receded enough to allow a full site inspection. Due to this site's location in the San Jacinto River, EPA implemented a response plan, which was in place prior to Hurricane Harvey, that detailed site inspection and response actions. The plan includes:

- Inspection and repair contractors on standby;
- Coordination with nearby business on storm preparation/notification;

- Site monitoring using Texas Department of Transportation & site cameras;
- River flow monitoring using an online upstream river gauge and dam release data;
- Access site when safe to do so;
- Stock pile rock near the site for cover system repairs;

In October 2017, following Hurricane Harvey, EPA decided to permanently remove the dioxin waste from the San Jacinto site in a Record of Decision issued by the EPA Administrator. The severity of tropical events and the frequency of repairs following storm events were key reasons for the dioxin wastes' full removal requirement.

- d. What guidance is the EPA providing to responsible parties and other stakeholders about the risk of climate change and how this should impact assessment or cleanup activities at a Superfund site?

EPA's Superfund Climate Change Adaptation website (<https://www.epa.gov/superfund/superfund-climate-change-adaptation>) contains resources to help guide responsible parties and other stakeholders in assessing and addressing climate change's effect on Superfund cleanups. These resources include technical fact sheets designed to help project managers and other cleanup stakeholders identify, prioritize, and implement site-specific measures for increasing remedy resilience to account for climate change effects. The web content is part of EPA's ongoing efforts to raise awareness among external stakeholders of the need to ensure remedy protectiveness, including remedy resilience to extreme weather events.

In addition to the guidance found on the Superfund Climate Change Adaptation website, the agency uses other communication approaches to convey remedy resilience information to stakeholders, including webinars and engaging target audiences with technical conference presentations. For internal EPA audiences such as project managers, the agency's Intranet site, EPA's Adaptation Resource Center, provides a "One-Stop" solution to finding and using Climate Change Adaptation resources. It contains training specifically geared toward land cleanup programs, including Superfund.

- e. How do flooding risks and other climate-related impacts factor into the EPA's prioritization and decision processes for Superfund sites?

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) are key parts of the basis for consideration of potential extreme weather impacts at Superfund sites.

As part of the Superfund removal process, extreme weather events are included as one of the eight factors that should be considered in determining whether a threat to public health or welfare or environment exists and that an action should be taken to mitigate that threat, which is outlined in 40 CFR 300.415(b)(2) with the following language, “Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.” This factor is usually cited with several of the other factors, but requires analyzing future weather conditions and determining how those weather conditions can affect contaminant migration.

The Superfund remedial process for planning and implementing contaminated site cleanups provides structure to consider both potential extreme weather effects and, as warranted, to take actions that increase remedy resilience. Extreme weather vulnerability analyses and adaptation planning are integrated throughout the Superfund process. For example:

- The Hazard Ranking System, which provides the framework for EPA to determine which sites should be included on the National Priorities List, considers flooding risks.
- Remedial investigations characterize the extent of a site’s contamination and associated risk, while the feasibility study evaluates cleanup alternatives, including the nine evaluation criteria of which the following are most relevant. (See: Remedial investigation/feasibility study and selection of remedy; 40 CFR 300.430(e)(9)(iii)):
 - Protective of human health and the environment;
 - Long-term effectiveness and permanence;
 - Reduction of toxicity, mobility or volume through treatment;
 - Short-term effectiveness;
 - Implementability.
- The record of decision (ROD) explains which cleanup alternative will be used and how it addresses these evaluation criteria. Leading up to a ROD’s issuance, the EPA releases, for public comment, a proposed plan containing a preferred cleanup remedy. Following the public comment period and state and tribal review, the EPA issues the final ROD.

- Remedial designs provide an opportunity to consider site vulnerabilities and adaptation measures to help maximize the remedy resilience.
- Five-year reviews evaluate existing remedies' protectiveness by considering whether "any other information has come to light that could call into question the protectiveness of the remedy." The EPA's 2001 five-year review guidance includes consideration of changing floodplain boundaries. Supplementary guidance issued in 2016 recommends consideration of "site changes or vulnerabilities" that may not have been apparent during remedy selection, such as "sea level rise, changes in precipitation, increasing risk of floods, changes in temperature, increasing intensity of hurricanes and increasing wildfires, melting of permafrost in northern regions, etc." See p. 4-9 of the 2001 Comprehensive Five-Year Review Guidance: <http://semspub.epa.gov/src/document/11/128607> and p. 10 of 2016 Five-Year Review Recommended Template: <https://semspub.epa.gov/src/document/11/100000001.pdf>

Information provided in response to a FOIA lawsuit filed by Public Employees for Environmental Responsibility indicate that the "Superfund Task Force" that you commissioned on May 22, 2017 generated no record of its deliberations beyond the final recommendations that were published on June 21.³⁶ This means that there was no agenda, no meeting minutes, no written drafts, and no attendance records for a task force that was working on one of your stated top priorities as EPA Administrator. The use of task forces to guide the decision-making process can lead to decisions being made in secret, away from the public eye, and outside the established public rulemaking process—something that raises serious alarms to those of us in the Senate concerned with transparent governance.

- f. Please describe in detail the drafting of the Superfund Task Force Recommendations report, including EPA political and career staff involvement, and provide all draft interim reports with dates and redlines.

The Superfund Task Force was established on May 22, 2017, to provide recommendations on an expedited timeframe on how the agency can restructure the Superfund cleanup process, realign incentives of all involved parties to promote expeditious remediation, reduce the burden on cooperating parties, incentivize parties to remediate sites, encourage private investment in cleanups and sites and promote the revitalization of properties across the country. Specifically, the Administrator asked the Task Force to provide recommendations on promoting site reuse, improving the timeliness of EPA activities and promoting stakeholder

³⁶ "Pruitt Superfund Plan Leaves No Fingerprints." Public Employees for Environmental Responsibility. December 20, 2017. Accessed January 18, 2018. <https://www.peer.org/news/news-releases/pruitt-superfund-plans-leave-no-paper-trail.html>

involvement. The Task Force report containing 42 recommendations was released on July 25, 2017. More than 100 EPA career staff from Headquarters and the ten Regions volunteered and were engaged in the Task Force in developing these recommendations. Furthermore, the instructions to the Task Force were to refrain from any recommendation that involved or required a statutory change.

54. News media³⁷ and advocacy groups³⁸ have uncovered a major shift in EPA enforcement activities since January 2017. As the EPA is tasked with protecting public health and the environment, a rapid decrease in activities meant to prevent and penalize pollution is cause for significant concern.

- a. Can you provide a justification for the memo³⁹ that directs EPA investigators to seek special authorization from the EPA Office of Enforcement and Compliance Assurance (OECA) headquarters for requests for information in circumstances where state authorities object to the request or the interpretation of the law, the media or politicians may be interested in the request, or requests will require sampling or testing beyond that already required by law and not completed by the entity?

The memorandum entitled *Interim Procedures for Issuing Information Requests Pursuant to the Clean Air Act § 114, Clean Water Act § 308, and RCRA § 3007* (May 31, 2017) was issued prior to the confirmation of the current OECA Assistant Administrator. OECA has not disapproved any information requests pursuant to the review process established by this memorandum. The reviews, however, gave OECA an awareness of a lack of consistency with respect to how the Agency handles information requests. OECA staff issued a memorandum entitled *Best Practices for Compliance and Enforcement-Related Information Requests* on November 21, 2018, to the Regions recommending best practices for information requests. Having established these best practices, the November 21, 2018, memorandum also withdrew the May 31, 2017, memorandum.

³⁷ Lipton, Eric, and Danielle Ivory. "Under Trump, E.P.A. Has Slowed Actions Against Polluters, and Put Limits on Enforcement Officers." The New York Times. December 10, 2018. <https://www.nytimes.com/2017/12/10/us/politics/pollution-epa-regulations.html>

³⁸ Environmental Integrity Project. "Civil Penalties Against Polluters Drop 60 Percent So Far Under Trump." August 10, 2017. As visited on January 18, 2018. <https://www.environmentalintegrity.org/news/penalties-drop-under-trump/>

³⁹ Shinkman, Susan. "Interim Procedures for Issuing Information Requests Pursuant to Clean Air Act § 114, Clean Water Act § 308, and RCRA § 3007." Environmental Protection Agency. May 31, 2017. Accessed January 18, 2018. <https://www.documentcloud.org/documents/4324892-EPA-Clean-Air-Act-and-Its-Power-to-Request.html#document/p60/a392202>

- b. What is the longest and what is the average time that it takes for requests for information submitted to OECA headquarters to be approved or denied and returned to regional EPA offices?

EPA did not track the time for review of information requests under the interim procedures.

- c. Did your predecessor, you or other political appointees at the EPA tell state officials or industry representatives that the EPA will cease to investigate or enforce some pollution cases? If so, please provide the dates of those conversations and how this decision was reached, as well as transcripts, if possible.

In January 2018, the OECA Assistant Administrator issued a memorandum entitled “Interim OECA Guidance on Enhancing Regional-State Planning on Compliance Assurance Work in Authorized States.” That memo sets forth an expectation of joint work planning between the Region and an authorized state, to divide up enforcement work and to maintain a collaborative relationship with “no surprises.” The memo contemplates situations where EPA has identified violations but the state requests to take the lead on enforcement. According to the memo, such a request must come from the state, not an industry representative. Such a request may take the form of a letter from the state commissioner to the Regional Administrator or may result from conversations among senior managers from the state and the Region. The memo sets forth the expectation that if the state takes the lead, the Region should periodically assess the state’s progress. As these conversations pertain to ongoing enforcement actions, the details are confidential.

- d. Have your predecessor, you or your political appointees restricted the ability of EPA enforcement officers to order pollution tests under Clean Water Act, Clean Air Act, or Resource Conservation and Recovery Act authority in any way beyond requiring them to proactively submit requests for information to OECA headquarters for approval? If so, please describe exactly how this ability has been changed since January 2017, detailing what additional steps EPA staff must take to order requests for information.

See response to Part A above.

- e. Please provide a detailed list of the companies and plants that have received notices of violation under the Clean Water Act, Clean Air Act, or the Resource Conservation and Recovery Act during the final nine months of Obama Administration, but that have not yet had any EPA penalties levied upon them.

In some enforcement circumstances, the EPA issues a NOV to a facility owner/operator that the agency has identified as having one or more violations. However, not all statutes include provisions for issuance of an NOV or require issuance of an NOV. Compare Clean Air Act § 205(c)(1), 42 U.S.C. § 7523(c)(1) (“[T]he Administrator shall give written notice to the person to be assessed” a penalty) with Clean Water Act § 309, 33 U.S.C. § 1319 (no provision for written notice).

Since not all statutes include these provisions, the agency does not centrally track all NOVs in the agency’s Integrated Compliance Information System (ICIS) enforcement and compliance database. Some information on NOVs is available in ICIS, but NOVs are not required to be entered. Additionally, because NOVs do not always result in the need for follow-up enforcement actions, e.g., where the facility promptly returns to compliance, we do not have the ability to link NOVs to later enforcement actions.

- f. Please provide a detailed list of the times and occasions where, since January 2017, the EPA has asked to delay a consent decree that was proposed during the final nine months of the Obama Administration.

EPA has not asked for a delay of any consent decree.

- g. A subsidiary of Koch Industries has challenged the EPA’s authority to issue requests for air pollution testing. Please provide a list of all meetings your predecessor, you or other political appointees took with Koch Industries or its subsidiaries or any entity representing these organizations, as well as with the North Dakota Petroleum Council, which has also criticized the EPA’s use of requests for information.⁴⁰

The EPA has a centralized search currently underway that we expect to yield documents relevant to your request. We anticipate delivering documents to you on a rolling basis as they become available.

⁴⁰ Ness, Ron. North Dakota Petroleum Council. March 31, 2017. Accessed January 19, 2018. <https://www.documentcloud.org/documents/4324892-EPA-Clean-Air-Act-and-Its-Power-to-Request.html#document/p52/a392199>

- h. Please provide a detailed list of occasions where, since January 2017, the EPA withdrew or accepted lower civil monetary penalties than were recommended under the previous administration and the rationale for these decisions.

EPA's civil penalty policies provide the bases upon which EPA compromises claims and settles cases for less than the statutory maximum penalty. These policies can be found here <https://www.epa.gov/enforcement/enforcement-policy-guidance-publications>. The Agency negotiates penalties based on these policies. The specifics of each case are confidential enforcement information. When an enforcement action is withdrawn or not pursued, regions report that information in ICIS. However, regions are not required to certify that this information is complete and accurate and they may not always enter it in a timely manner. We have provided below the total number of enforcement actions in ICIS reported as withdrawn or not pursued. Because the decision to withdraw a case may involve an enforcement-confidential determination, we have not provided a list of cases.

Actions Reported	CY08	CY09	CY10	CY11	CY12	CY13	CY14	CY15	CY16	CY17	CY18
Total**	70	130	64	110	97	58	64	34	40	37	29

** In an effort to provide complete and accurate data, we conduct continuous data quality assessments of federal compliance and enforcement data. As a result, the total number of enforcement actions reported as withdrawn or not pursued in this table updates what EPA provided in prior responses. The data is current as of December 20, 2018.

55. On December 1, the EPA announced that it would be reversing a rule⁴¹ proposed under the last administration that would have required that companies mining non-coal minerals (like gold, silver, copper or lead) demonstrate to the EPA that they can afford cleanup costs once the mine is closed, through mechanisms like bonds, insurance, or self-insurance.⁴²
- a. Please provide the EPA's views as to who would be responsible for any necessary cleanup costs once these mines are closed, including any estimated costs to the U.S. Treasury over the next 10 fiscal years in the absence of this rule.

⁴¹ Environmental Protection Agency. "Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry." Federal Register. January 11, 2017. Accessed January 18, 2018. <https://www.federalregister.gov/documents/2017/01/11/2016-30047/financial-responsibility-requirements-under-cercla-108b-for-classes-of-facilities-in-the-hardrock>.

⁴² Cama, Timothy. "EPA seeks to ensure mining companies can pay cleanup costs." The Hill. December 02, 2016. Accessed January 18, 2018. <http://thehill.com/policy/energy-environment/308474-epa-seeks-to-ensure-mining-companies-can-pay-cleanup-costs>

In developing its final action, EPA analyzed the need for financial responsibility based on risk of taxpayer funded cleanups at hardrock mining facilities operating under modern management practices and modern environmental regulation, i.e., the type of facilities to which financial responsibility regulations would apply. That risk is identified by examining the management of hazardous substances at such facilities, as well as by examining federal and state regulatory controls on that management and federal and state financial responsibility requirements. With that focus, the record demonstrates that, in the context of CERCLA section 108(b), the degree and duration of risk associated with the modern production, transportation, treatment, storage, or disposal of hazardous substances by the hardrock mining industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector.

The Regulatory Impact Analysis (RIA) for the proposed rule estimated that the projected level of taxpayer liability that would have been avoided by the proposed rule was relatively small, and that the costs of meeting the proposed financial responsibility requirements were an order of magnitude greater than the costs avoided by the federal government as a result of such requirements. EPA did not require evidence of financial responsibility under section 108(b) at hardrock mining facilities in its final action. EPA therefore did not conduct an RIA for it.

- b. In a statement, former Administrator Scott Pruitt said that he was “confident that modern industry practices, along with existing state and federal requirements address risks from operating hardrock mining facilities.”⁴³ Please detail the federal requirements that address those risks and what industry practices are in place that would prevent cleanup costs from being passed along to the American taxpayer.

With respect to federal regulatory requirements, EPA discusses these in the Federal Register preamble to its final action (see 83 FR 7565 et seq.). With respect to industry practices, EPA evaluated information received in comments on the proposed rule that argued that new facilities are specifically designed, constructed, operated and closed in a manner to prevent environmental degradation and to avoid the types of problems that were caused by past practices. Further specifics can be found at 83 FR 7577-80.

⁴³ “EPA Determines Risks from Hardrock Mining Industry Minimal and No Need for Additional Federal Requirements.” Environmental Protection Agency. December 1, 2017. Accessed January 19, 2019. <https://www.epa.gov/newsreleases/epa-determines-risks-hardrock-mining-industry-minimal-and-no-need-additional-federal>

- c. Please provide my office with any memos, meeting notes, emails, or other documentation on this proposed rule reversal during the year of 2017 between the Office of the Administrator or political appointees, including your predecessor, you, and any one or combination of the following groups: the Western Governors' Association, the National Mining Association, the state of Utah, the state of Arizona, or the state of Idaho.

The agency is currently working on responding to a FOIA request from Earth Justice regarding the same information. EPA expects that it will take several months to compile the information to respond to the FOIA and the Congressional requests. We will update the Committee when we have this information.

56. Since 2010, the EPA had argued that construction undertaken by the DTE Energy Company at DTE's Monroe Power Plant in Michigan, one of the largest coal-powered plants in the country, required a preconstruction permit under the new source review (NSR) program. The EPA filed an enforcement action as a result of projected emissions increases of sulfur dioxide and nitrogen that would have resulted from this facility overhaul.⁴⁴ On Dec. 7, 2017, former Administrator Pruitt issued a memo reversing the position the EPA had taken since 2010 on pollution management for DTE Energy.⁴⁵ The memorandum states that the EPA will no longer "initiate enforcement in such future situations unless actual post-project emissions data indicate that a significant emissions increase or significant net emissions increase did in fact occur." The memo also details how the EPA will now apply the NSR regulations in a way that defers to the "intent of an owner or operator to manage emissions," rather than basing decisions solely on quantifiable information like the projections of future emissions.

- a. Please provide a justification for this regulatory change from December 2017, which could be read as preventing the EPA from conducting any enforcement activities until after companies release dangerous pollutants into American communities.

The December 7, 2017 Memorandum from Administrator Pruitt that you identified was not a regulatory change. The memorandum explains, among other things, that it "is not a rule or regulation" and that it does not "change or substitute for any law, regulation, or other legally binding requirement and is not legally enforceable" (p. 2). Rather, the

⁴⁴Evans, Carlos. "U.S. v. DTE Energy Co. (DTE II)." American Bar Association. Accessed January 18, 2018. https://www.americanbar.org/groups/environment_energy_resources/committees/dch/aq/20170613_us_v_dte_energy_co.html

⁴⁵ Pruitt, E. Scott. "New Source Review Preconstruction Permitting Requirements: Enforceability and Use of the Actual-to-Projected-Actual Applicability Test in Determining Major Modification Applicability." Environmental Protection Agency. December 7, 2017. Accessed January 18, 2018. https://www.epa.gov/sites/production/files/2017-12/documents/nsr_policy_memo.12.7.17.pdf

memorandum sought to resolve uncertainty related to the application of certain existing requirements in the NSR regulations at issue in two appellate court decisions from 2013 and 2017, respectively, identified in the memorandum. In particular, the memorandum communicated the EPA's intended approach, for future matters, to the application of the procedures in the NSR regulations that apply to sources using "projected actual emissions" in determining NSR applicability and the associated pre- and post-project source obligations. Administrator Pruitt explained in the memorandum that he believed the memorandum was necessary to provide greater clarity for sources and states implementing the NSR regulations.

- b. Will you continue to pursue changes to new source review regulations?

Yes. Consistent with presidential priorities, the EPA continues to review the NSR permitting program regulations and associated policies for opportunities to clarify and streamline requirements while maintaining environmental protections.

- c. How does the EPA plan to assess the intent of an owner or operator to manage future emissions from the project on an ongoing basis to prevent a significant net emissions increase from occurring?

The NSR regulations contain recordkeeping, monitoring and reporting requirements that are designed to ensure the integrity and validity of pre-project applicability analyses. The regulations require owners or operators to perform a pre-construction applicability analysis to determine whether a proposed project would result in a significant emissions increase and a significant net emissions increase, thus triggering the requirement to obtain an NSR permit. The regulations also specify that all relevant information be used in determining the projected actual emissions for use in that analysis. As explained in the December 7, 2017 Memorandum, EPA intends to apply the NSR regulations such that this could include information related to the intent of an owner or operator to manage future emissions from an affected unit after the project that could be considered along with other relevant information in making an emissions project. The NSR regulations further provide that, when certain criteria are met, certain information shall be documented, maintained, and in certain cases submitted to the reviewing authority prior to beginning actual construction. The NSR regulations also contain post-project monitoring, recordkeeping and reporting obligations that can apply for a period of 5 or 10 years following a project, depending on the type of source involved. These post-project monitoring, recordkeeping

and reporting provisions can provide a means to evaluate whether a project actually did result in a significant emissions increase as well as the validity of the source's pre-project determination that there would be no such increase.

- d. As the memo states that "decisions about how to proceed in ongoing enforcement matters will be made on a case-by-case basis," please provide a list of any other NSR enforcement cases that will no longer be pursued under this new standard and the status of the decision-making process on any case that has not yet been resolved.

It is not our practice to comment on individual enforcement matters.

- e. Does the EPA now intend to no longer pursue enforcement of its projection regulation in any cases where source owners or operators are determined to have failed to perform a required pre-project applicability analysis or failed to follow the calculation requirements of the regulations, or only in the DTE Energy case? If so, what is the EPA's justification for this decision, and how will the agency continue to ensure that air quality is protected?

Decisions about how to proceed in ongoing enforcement matters will be made on a case-by-case basis in accordance with the December 2017 Memorandum. This includes taking enforcement action on a case-by-case basis when a source owner or operator fails performs a pre-project NSR applicability analysis or fails to follow the calculation procedures in the regulations.

- f. Do you intend to notify and consult the public on this important issue through open comment and public meetings advertised in the Federal Register, as required by the Administrative Procedures Act?

The December 2017 Memorandum communicated how the EPA intends to apply certain aspects of the applicability provisions of the NSR regulations. As explained above, the guidance contained in that memorandum is an interpretive rule that does not constitute a legislative rule, regulation, or other legally binding requirement under the Administrative Procedure Act. Nor does the guidance change or substitute for any law, rule or regulation, or other legally binding requirement. For these reasons, the Administrative Procedure Act does not require the EPA to provide for either open comment or public meetings on this issue, as the question wrongly assumes. The EPA does not currently plan to pursue rulemaking or other action requiring public notice and comment on the specific issues addressed in the memorandum.

57. Former EPA Administrator Scott Pruitt issued a memo preventing anyone receiving an EPA grant from serving on scientific advisory panels.⁴⁶ As a result, many expert researchers can no longer provide advice on technical questions and scientific best practices to the EPA. In answers provided to me by Administrator Pruitt on May 10, 2018, he indicated that he relied on the use of “Administrator’s discretion” to enact this directive. However, no guidance was issued on how to prevent improper conflicts of interest for panel appointees who have worked for companies or trade groups (either directly or as a contracted lobbyist) that could be subject to EPA regulations.⁴⁷

- a. Will you reverse this directive?

There are no plans to reverse the directive.

- b. Please provide a list of Advisory Panel members who have worked in or lobbied for industries regulated by the EPA over the five years preceding their nomination to the panel, noting in which industries and what capacity the member worked.

Information about current members of EPA's federal advisory committees can be found here: <https://www.epa.gov/faca/all-federal-advisory-committees-epa>. To the extent you seek a more extensive inquiry, please reach out to EPA's Office of Congressional and Intergovernmental Relations.

- c. Please provide a rationale for discerning between this financial conflict of interest and the alleged conflict of interest possessed by scientists who have received EPA grant money.

Every candidate for a federal advisory committee position must disclose to EPA potential conflicts of interest. The directive builds on that requirement by further ensuring that any person serving on an EPA federal advisory committee be as fully independent as possible from the agency. Any potential lack of independence or potential conflict with EPA, including financially, could affect the advice that is given.

- d. Please describe the ethics review process for Advisory Panel members with financial ties to industries regulated by the EPA.

⁴⁶Pruitt, E. Scott. "Strengthening and Improving Membership on EPA Federal Advisory Committees." Environmental Protection Agency, October 31, 2017. Accessed January 18, 2018.

https://www.epa.gov/sites/production/files/2017-10/documents/final_draft_fac_directive-10.11.2017.pdf

⁴⁷ Dennis, Brady, and Juliet Eilperin. "Scott Pruitt blocks scientists with EPA funding from serving as agency advisers." The Washington Post. October 31, 2017. Accessed January 18, 2018.
https://www.washingtonpost.com/national/health-science/scott-pruit-blocks-scientists-with-epa-funding-from-serving-as-agency-advisers/2017/10/31/95d391ac-be6a-11e7-959c-1c2b598d8ef0_story.html?hpid=hp_hp-top-table-main-health%3Apruit-blocks-science%3Ahomepage%2Fstory&utm_term=.908c2675273c

Information responsive to this question can be found in EPA guidelines and public documents, including:

- <https://www.epa.gov/faca/strengthening-and-improving-membership-epa-federal-advisory-committees>
- <https://www.epa.gov/sites/production/files/2015-02/documents/ethicsadvisory.pdf>
- <https://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument>

- e. Please provide an explanation on how existing conflict of interest policies for EPA advisory boards were insufficient to prevent scientific researchers receiving EPA grants from being unethically partial or biased.

The directive builds on preexisting policies by further ensuring that any person serving on an EPA federal advisory committee be as fully independent as possible from the agency. Any potential lack of independence or potential conflict with EPA, including financially, could affect the advice that is given.

58. Since January 2017, more than 700 EPA employees have left the agency or been forced to leave or retire, and more buyouts are expected. This number includes about 200 scientists, nearly 100 environmental protection specialists, and nine department directors.⁴⁸ The EPA, which is responsible for protecting the health and environment of the American people, is now at its smallest size since the last year of the Reagan Administration—despite the fact that the U.S. population has grown by 80 million people since that time.⁴⁹

Scientists are not being replaced, accounting for only 5 percent of the new hires this year. At the same time that the EPA is hemorrhaging technical expertise, the number of political appointees and administrator is disproportionately increasing. The Office of Chemical Safety and Pollution Prevention hired seven people and lost 54, and the Office of Water hired one person and lost 26, but the Administrator's office has grown by 20 people.

- a. Please provide data on the number of political appointees hired at the EPA since January 2017, and on political appointees hired under the three preceding EPA administrators.

⁴⁸ Friedman, Lisa, Marina Afio, and Derek Kravitz. "E.P.A. Officials, Disheartened by Agency's Direction, Are Leaving in Drove." The New York Times. December 22, 2017. Accessed January 18, 2018. <https://www.nytimes.com/2017/12/22/climate/epa-buyouts-pruitt.html>

⁴⁹ Carna, Timothy. "EPA staffing falls to Reagan-era levels." The Hill. January 09, 2018. Accessed January 18, 2018. <http://thehill.com/policy/energy-environment/368090-epa-staffing-hits-reagan-levels>

The number of political appointees hired at the EPA since January 21, 2017 is 96.

The chart below contains the number of political appointees with an accession/ start date during the specified time periods and does not account for political appointees that may already be on-board during those timeframes.

Political Appointees Hired

Date Range	Administrator	Count
01/26/2009 - 02/14/2013	Jackson	99
02/15/2013 - 07/18/2013	Perciasepe	10
07/19/2013 - 01/20/2017	McCarthy	65

- b. Please provide data on the number of career EPA staff since January 2017 and the number of career staff under the three preceding EPA administrators. What is the current number of Full-Time Equivalent (FTE) staff at the EPA?

Please see the response to question 28 for the current number of Full-Time Equivalent staff at EPA.

Below is the number of career EPA staff (all employees except experts, consultants, and political appointees) hired 01/21/2017 – 08/21/2018 and the number of career EPA staff (all employees except experts, consultants, and political appointees) hired under the three preceding EPA administrators.

Career Employees Hired

Date Range	Administrator	Count
01/26/2009 - 02/14/2013	Jackson	1624
02/15/2013 - 07/18/2013	Perciasepe	28
07/19/2013 - 01/20/2017	McCarthy	2275
01/21/2017 – 08/21/2018	01/21/2017 – 08/21/2018	293

- c. Former Administrator Pruitt provided data to the press indicating that the EPA could cut its staff by 47 percent by 2021⁵⁰ -- can you commit to reversing this trend, or alternatively cutting the number of political appointees by an equal amount by the same time? If not, why not?

⁵⁰ Bedard, Paul. "Success: EPA set to reduce staff 50% in Trump's first term." Washington Examiner. January 09, 2018. Accessed January 18, 2018. <http://www.washingtonexaminer.com/success-epa-set-to-cut-nearly-50-of-staff-in-trumps-first-term/article/2645362>

The Agency is working to carefully manage its workforce to support progress toward the goals and objectives of the EPA's FY 2018-2022 Strategic Plan.

59. News reports indicate that the EPA is now using a business efficiency system known as "lean" in agency activities.⁵¹ The "lean" management philosophy was developed to minimize waste within a manufacturing system, and originated within the Toyota Production System in the 1990s. I am deeply concerned that the integration of "lean" philosophy into environmental protection has resulted in the prioritization of industry over public safety. A former EPA employee said that the use of "lean" principles required her to curb requests for further information regarding pollution on Superfund sites.⁵²

- a. Does the EPA agree with the conclusion drawn in the Arizona "lean" method instructional video⁵³ that the "customer" of environmental protection work is not the American taxpayer, but actually the company being regulated? If so, how does that correspond to the EPA's mission to protect public health and the environment?

EPA's utilization of Lean is not new. EPA has used Lean to improve its processes for over 10 years. A list of Lean projects at EPA through fiscal year 2017 is attached to this response. In fiscal year 2018, EPA has focused on developing a management system that supports lean process improvement efforts and promotes continuous problem identification and the use of a range of approaches to solving problems. The Lean method is just one type of problem solving approach. Delivering EPA's important mission in a more effective and efficient manner for American taxpayers is the explicit goal of the EPA Lean Management System.

- b. Has the "lean" method been implemented at any EPA projects, including at Superfund sites? If so, please provide a list of which projects and at what time the implementation directive occurred.

As a result of EPA's continued utilization of Lean, several projects have been undertaken in fiscal year 2018 for the following processes: acquisitions, Freedom of Information Act responses, environmental permitting, Toxic Substances Control Act Premanufacture Notice Final Determinations, Superfund Site-wide Ready for Anticipated Use

⁵¹Stern, Marcus, "EPA Using Controversial Process to Push Cleanup of America's Most Toxic Sites." The Weather Channel. Accessed January 18, 2018. <https://weather.com/science/environment/news/2017-12-19-epa-scott-pruitt-lean-superfund-sites>

⁵² Ibid.

⁵³ Arizona Management System. "Knowing your Customer." Office of the Arizona Governor Doug Ducey. Accessed January 18, 2018. <https://ams.az.gov/knowing-your-customer>

(SWRAU) process, and the brownfields Ready for Anticipated Use process.

With regard to the Sitewide Ready for Anticipated Use (SWRAU) effort:

- SWRAU is an agency performance measure that was developed to comply with EPA's responsibility to report long-term, outcome-based accomplishments under the Government Performance and Results Act. The SWRAU measure reflects the importance of considering future land use as part of the cleanup process by tracking the number of sites meeting certain criteria.
- In March 2018, EPA held a Lean event to focus on increasing the number of Superfund sites that meet the SWRAU performance measure each year. In addition to EPA HQ participation, the lean event was attended by representatives from EPA Regions 1-9, and from the states of Delaware, Maryland, Oklahoma, and Virginia. Outcomes from the event include: updating the current SWRAU Best Practices document to include ideas discussed during the Lean event; forming the National SWRAU Workgroup; creating a visual management tool to track SWRAU sites; developing a form to track performance improvements; and reviewing legacy sites that have reached construction completion but not SWRAU.

In addition, EPA has used Lean approaches at the following Superfund sites:

- In August 2017, EPA Region 9 began talks with Atlantic Richfield Co. to discuss holding a Lean event at the Leviathan Mine Site, an abandoned open-pit sulfur mine on the eastern slope of the Sierra Nevada in Alpine County, California. The purpose of the application of Lean at this site was to examine the Remedial Investigation/Feasibility Study (RI/FS) schedule along with the Administrative Order on Consent (AOC) deadlines and form the most efficient process to meet the expectations of the stakeholders and RI/FS/AOC requirements.
- In November 2017, EPA met with the Washoe Tribe to discuss the potential Lean event. EPA Region 9's Leviathan Lean team met with other Leviathan Lean team members. After subsequent check-ins with the Washoe Tribe, the Tribe decided that they did not have time to commit to the Leviathan Lean process, as the Leviathan Site Characterization Report had recently been submitted.

- c. Please detail employment information, including title, for Veronica Garcia, who has been reportedly teaching “lean” management to EPA staff.⁵⁴

Veronica Garcia Darwin is a Senior Advisor to EPA’s Office of Land and Emergency Management. Ms. Darwin is responsible for implementing the recommendations of the EPA Superfund Task Force (<https://www.epa.gov/superfund/superfund-task-force>). **The 2018 update on EPA’s progress on the Superfund Task Force’s recommendations was published on July 23, 2018** (<https://semspub.epa.gov/work/HQ/197209.pdf>). **Prior to joining EPA, Ms. Darwin spent more than 18 years working extensively on environmental waste issues, including roles as a compliance officer in EPA Region 9 and as deputy division director of the Arizona Department of Environmental Quality’s Waste Divisions Program.**

- d. Please provide any documents related to how the “lean” principles are being integrated into Superfund site management.

In October 2015, EPA held a Lean kaizen event for the Applicable or Relevant and Appropriate Requirements (ARARs) identification and selection process. An outcome of the Lean event was to pilot a best practice process for two years and then evaluate its implementation. In October 2017, EPA issued a memo outlining the pilot process. The memo is attached to this response. The agency expects to start evaluating the pilot in October 2019.

60. In February 2017, President Trump directed agencies to establish task forces that would develop a list of regulations that should be targeted for elimination, edit, or replacement. While former Administrator Pruitt issued an agency-wide memorandum of implementation that included the names of EPA staff who would lead and work on the Regulatory Reform Task Force on March 24, 2017,⁵⁵ no further details about the task force or its process have been made public. The president’s Executive Order required that this task force submit a progress report to the Administrator by mid-May 2017.⁵⁶

⁵⁴ Stern, “EPA Using Controversial Process to Push Cleanup of America’s Most Toxic Sites.”

⁵⁵ Pruitt, E. Scott. “Executive Order 13777: Enforcing the Regulatory Reform Agenda.” Environmental Protection Agency. March 24, 2017. Accessed January 18, 2018. https://www.epa.gov/sites/production/files/2017-04/documents/regulatory_reform_agenda.pdf

⁵⁶ Executive Office of the President. “Enforcing the Regulatory Reform Agenda.” Federal Register. February 24, 2017. Accessed January 18, 2018. <https://www.federalregister.gov/documents/2017/03/01/2017-04107/enforcing-the-regulatory-reform-agenda>

- a. Please provide the May progress report for the Regulatory Reform Task Force, any subsequent progress reports, and the schedule by which further progress reports will be requested.

The May 2017 progress report was an internal, deliberative agency document that was not produced publicly. Nonetheless, the work of the Regulatory Reform Task Force, including agendas for public meetings and teleconferences, can be found at <https://www.epa.gov/laws-regulations/regulatory-reform>. For other document requests, please reach out to EPA's Office of Congressional and Intergovernmental Relations.

- b. Please provide the calendar and schedule for the Regulatory Reform Task Force members, dating back to March 24, 2017.

Per E.O. 13777, EPA hosted a series of public meetings and teleconferences to inform the Regulatory Reform Task Force. Information on these public meetings and teleconferences, including agendas, is accessible through EPA's Regulatory Reform webpage: <https://www.epa.gov/laws-regulations/regulatory-reform>.

- c. Please provide any documents relating to or criteria being used by the Regulatory Reform Task Force to determine which regulations it will focus on.

The Regulatory Reform Task Force has drawn from the thousands of comments in response to a *Federal Register* notice seeking input on regulations that may be appropriate for repeal replacement or modification. The Task force has also been informed by public meetings and teleconferences discussing regulatory reform. EPA's regulatory reform efforts, including the work of the Regulatory Reform Task Force, and information on the meetings and teleconferences, including agendas, is publicly available at <https://www.epa.gov/laws-regulations/regulatory-reform>.

Can you commit to a more transparent process for task forces going forward, including publishing of planning documents, meeting minutes and attendees, reports, and timelines for decision-making?

Some discussions among the Regulatory Reform Task Force may be internal or pre-decisional agency actions protected from disclosure. Nonetheless, information involving the Regulatory Reform Task Force such as public meetings and teleconferences, including agendas, is accessible through EPA's Regulatory Reform webpage: <https://www.epa.gov/laws-regulations/regulatory-reform>.

Senator Sanders

65. In response to my questions for the record from your nomination hearing to become the EPA's Deputy Administrator, you committed to "relying on independent scientists with relevant expertise to evaluate and review the data that EPA uses when making decisions related to the implementation of environmental regulations."

This commitment stands in opposition to then-Administrator Pruitt's October 31, 2017 directive to prohibit scientists who receive EPA grants from serving on EPA Federal Advisory Committees (FAC). As we know from administrative records released on May 23, 2018 in response to a federal court order, the EPA did not solicit or receive input from scientific or technical organizations while formulating this rule. Instead, the EPA relied mostly on input from political and industry groups. Given that the EPA did not rely on independent scientists with relevant expertise when formulating this October 31 directive, and that the directive has and will continue to block independent scientists with relevant expertise from evaluating and reviewing the data used to make regulatory decisions, please describe your plan, including a timeline, for reversing then-Administrator Pruitt's directive regarding membership on EPA FACs.

There is no plan to reverse the directive. The directive's beneficial purpose is to strengthen existing membership on EPA Federal Advisory Committees by improving member independence, diversity, and breadth of participation on these committees. The directive builds on measures already in place to address potential conflicts of interest.

66. Your commitment to rely on independent scientists also contradicts then-Administrator Pruitt's appointment of many representatives from the regulated fossil fuel and chemical industries to these commissions.

Given that these industry representatives are not independent, and their scientific conclusions are not always peer-reviewed, please describe your plan, including a timeline, for replacing them with truly independent scientists who will ensure the EPA's use of peer-reviewed scientific studies to support the EPA's mission to protect human health and the environment.

The Agency is committed to selecting qualified, independent, and knowledgeable individuals to serve on advisory committees. All EPA employees, including Special Government Employees, must abide by federal ethics laws and regulations, including the Standards of Ethical Conduct for Employees in the Executive Branch, 5 C.F.R. Part 2635, and the conflict of interest statutes codified in Title 18 of the United States Code. Agency policies, including ethics-related and conflict of interest guidelines, can be found at:

- <https://www.epa.gov/faca/strengthening-and-improving-membership-epa-federal-advisory-committees>

- <https://www.epa.gov/sites/production/files/2015-02/documents/ethicsadvisory.pdf>
- <https://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument>

67. On April 24, 2018, then-Administrator Pruitt proposed the “Strengthening Transparency in Regulatory Science” (STRS) rule to bar the EPA from considering important peer-reviewed public health studies in making decisions about vital protections for human health and the environment. Emails obtained by the Union of Concerned Scientists show that EPA officials significantly altered this rule prior to its release in order to avoid imposing “enormous burdens on industry.”

As you know, the proposed rule gives the EPA Administrator unilateral authority to determine what constitutes “pivotal regulatory science.” You are not a scientist, so any use of this unilateral authority would constitute a violation of your pledge to rely on independent scientists when making decisions related to the implementation of environmental regulations.

Were you aware that EPA officials adjusted this proposed rule to avoid imposing “enormous burdens on industry”? If so, please provide a timeline for withdrawing the STRS rule. If not, do you commit to investigate the regulatory capture inherent in the STRS rule?

The proposed rule *Strengthening Transparency in Regulatory Science* seeks to ensure that the regulatory science underlying EPA’s actions is publicly available in a manner sufficient for independent validation. Where available and appropriate, EPA will use peer-reviewed information, standardized test methods, consistent data evaluation procedures, and good laboratory practices to ensure transparent, understandable, and reproducible scientific assessments. The public comment period for this rule was open from April 30 to August 16, 2018. EPA also held a public hearing in July to get feedback on the proposed rule. EPA is now reviewing public comments and will follow the agency’s regulatory process.

68. In response to my questions for the record from your nomination hearing to be the EPA’s Deputy Administrator, you stated that you were unfamiliar with the EPA’s December 2016 report on hydraulic fracturing’s (fracking) impacts on drinking water. In this report, the EPA found “hydraulic fracturing activities can impact drinking water resources under some circumstances.” You committed to working with career EPA employees on the issue. You also stated that you believe that “all of the environmental laws function better with the information in the hands of the communities most-impacted.”

- a. Now that you have had ample time to work with career EPA employees on the issue, do you concur with the conclusions of the EPA’s final report on fracking and drinking water?

EPA's study of the potential impacts of hydraulic fracturing on drinking water in the United States was conducted with active engagement with states, tribes, industry, and multiple non-governmental organizations. The study produced over 25 peer-reviewed reports and journal publications that advanced understanding of hydraulic fracturing activities. The study culminated with the publication of EPA's December 2016 assessment entitled "Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing water cycle on drinking water resources in the United States." That assessment was based upon the latest science available at the time and cites over 1,200 sources of data and information. Those conclusions are being used by federal, tribal, state, and local officials; industry; and the public to better understand and address vulnerabilities of drinking water resources to hydraulic fracturing activities.

- b. What further actions are you taking with career employees to regulate fracking's impacts on water quality?

The EPA is working with states, the oil and gas industry, and stakeholders such as the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission to ensure that oil and gas development occurs safely and responsibly to protect drinking water resources. Consistent with the EPA's Memorandum to the EPA Regions and State and Tribal Underground Injection Control (UIC) Program Directors in February 2014 and an associated technical "Permitting Guidance (UIC Program Guidance #84) for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels," the EPA continues to issue Safe Drinking Water Act UIC permits, where EPA directly implements the UIC Program, for the injection of diesel fuels for hydraulic fracturing related to oil and gas operations. Additionally, in May 2018, the EPA initiated a study to evaluate approaches to managing both conventional and unconventional oil and gas extraction wastewaters generated at onshore facilities. Currently, the majority of this wastewater is managed through underground injection, where that water can no longer be accessed or used. A key component of the study is to engage with states, tribes, and stakeholders, including industry and non-governmental organizations, to facilitate discussion and solicit information on topics surrounding produced water management.

- c. What actions have you taken to ensure that impacted communities have information about the ways in which fracking may be impacting their water quality?

EPA actively engages with a very wide range of stakeholders to better understand hydraulic fracturing activities. Throughout the conduct of the hydraulic fracturing drinking water study, EPA has engaged with states, tribes, industry, and others to both collect information and to discuss the results of our findings. For example, the EPA recently launched a new study to look at how the EPA, states, tribes, and stakeholders regulate and manage wastewater from the oil and gas industry. This fall, the EPA will conduct a public meeting to report on what the Agency has learned to date and provide stakeholders with

an additional opportunity to provide input. Additionally, where the EPA directly implements the Safe Drinking Water Act Underground Injection Control Program, permitting decisions are subject to public notice and comment, affording communities with the opportunity to learn more about a proposed project within their community and submit comments to EPA for consideration. The EPA is also currently working to stand up a web-based compliance assistance center for stakeholders, including the public, to better understand the oil and natural gas sector and the regulations that ensure protection of water quality. Other EPA activities are highlighted on the Agency's web site for unconventional oil and gas activities (<https://www.epa.gov/uog>).

69. In response to my questions for the record from your nomination hearing to be the EPA's Deputy Administrator, you stated that you had not been briefed on the EPA's Environmental Justice 2020 plan but looked forward to working with career agency employees on its implementation.

Have you been briefed on the plan? If you have been briefed, please describe how you are working to ensure that the EPA's Environmental Justice 2020 plan is fully implemented. If you have not been briefed, please include a timeline for when you will receive this important information. Please also include a timeline for then fully implementing the Environmental Justice 2020 plan.

EPA continues to further environmental justice through implementation of important strategic priorities within the Agency, through the leadership of the Interagency Working Group on Environmental Justice and through continued direct support of and engagement with community-based organizations throughout the United States. EPA has taken meaningful steps towards implementing the Environmental Justice 2020 plan. For example, earlier this year the Office of Policy issued an Agency-wide memorandum containing numerous environmental justice strategic priorities. These priorities were purposefully aligned with key elements of the EJ 2020 Action Agenda. Examples of this alignment are a continued focus on engaging with states, tribes and other governmental partners to support their interest in integration of environmental justice into their programs; developing metrics to track the meaningful implementation of environmental justice considerations and tools into program activities throughout EPA; advancing our ability to engage directly with vulnerable and overburdened communities to provide tangible improvements that meet their needs; and making progress on key national measures of EPA's impact on issues critical to furthering environmental justice.

Moreover, this past year EPA also released our annual EJ report, which contains numerous examples of how EPA has continued to make significant progress on environmental justice strategic priorities from across our regional and national program offices. We have also recently formed an agency-wide senior decision-making body for environmental justice and community revitalization efforts called

the Environmental Justice and Community Revitalization Council. As we continue to implement these important steps, we are in the process of evaluating the EJ 2020 Action Agenda in whole in preparation for an update to the multi-year strategic plan. We estimate this process to conclude during the winter of 2018/19.

70. As you know, many of former Administrator Pruitt's proposed rulemakings have generated lawsuits from outside groups due to their questionable legality. You recognized the questionable legality of at least one of these rules in reversing former Administrator Pruitt's decision to lift the sales limits on so called "glider trucks." Given that many of former Administrator Pruitt's rules and proposed rulemakings were based on the same questionable legal ground as the glider trucks rule, please describe your plan, including a timeline, for withdrawing all other proposed rulemakings signed by former Administrator Pruitt.

EPA does not have a comprehensive plan to rescind "all other proposed rulemakings signed by former Administrator Pruitt."

The decision to withdraw the conditional no action assurance regarding small manufacturers of glider vehicles was a decision specific to the facts and law relevant to that matter. As explained in the July 26, 2018 memo, "[a]fter consultation with OAR, OECA and OGC, and after further consideration of the No Action Assurance and information before me, including the administrative and judicial petitions and motions, and the application of agency guidance regarding no action assurances to these particular facts, I have concluded that the application of current regulations to the glider industry does not represent the kind of extremely unusual circumstances that support the EPA's exercise of enforcement discretion." EPA will similarly continue to consider all relevant factors, including legal authority, as we take regulatory action.

71. As you know, the EPA Office of Investigator General (IG) has opened nine investigations into former Administrator Pruitt's ethical conduct. Given that several of these investigations are related to potential conflicts of interest that could have influenced Mr. Pruitt's conduct and decisions as EPA Administrator, will you commit to suspending all proposed rulemakings he signed until the EPA IG concludes all its investigations?

EPA is committed to cooperating with the IG. EPA takes very seriously the findings or recommendations made by the IG with regard to EPA's agency actions, including rulemakings.

72. During this hearing, Chairman Barrasso asked you the following question:

The state of Washington is abusing section 401 of the Clean Water Act in order to block the development of coal export terminal in that state. The terminal would

ship coal from Wyoming, Montana, Utah, and Colorado to markets in Asia. The state of Washington has cited reasons for objecting to the terminal that have nothing to do with water quality, yet they're using section 401 of the Clean Water Act. I introduced a bill this week to address this problem, we can't allow states to block the export of American energy, so will you commit to working with me to identify both legislative and regulatory solutions to stop these abuses?

You responded by committing to helping to stop these “abuses.”

The state of Washington found that construction of this terminal would permanently destroy more than 30 acres of wetlands, and that operation of this terminal would deposit coal dust to nearby surviving wetlands. As you may know, coal dust has a significant and negative impact on the ecological functions of wetlands.

Do you consider the state of Washington’s decision to prevent the permanent destruction and environmental contamination of its wetlands to be an “abuse” of its authority under the Clean Water Act to ensure permitted activity will comply with applicable water quality standards? If not, do you commit to informing Chairman Barrasso that you will not help him reverse the decision made by the state of Washington?

Section 401 of the Clean Water Act (CWA) provides states with an opportunity to evaluate and address aquatic resource impacts of federally-issued licenses and permits. It is a direct grant of authority from Congress to the states. The statute does not provide the EPA with the authority to review, approve, or deny state section 401 certification programs or individual state certification decisions. The EPA supports the appropriate use by the states of their section 401 authority consistent with the goals of the CWA and promotes timely coordination, planning, and review.

Senator Whitehouse:

73. I appreciate the steps you’ve already taken to right the ship at EPA. While I expect many of the ethical lapses during Scott Pruitt’s tenure will not continue after his departure, his behavior exposed systemic failures within EPA that need to be addressed. Specifically, I still wait for complete answers about:

- a. Who was responsible for prohibiting EPA scientists from presenting their work at a Narragansett Bay Estuaries Project conference in October last year;

As explained in our December 4, 2017 letter to you, the EPA understands your concerns about the cancellation of planned presentations at the October 23, 2017 State of Narragansett Bay Estuary Program workshop. We have since put in place procedures to prevent such an occurrence in the future. Senior agency leadership – both political and career – have been assured that they have the authority to make decisions about event participation.

- b. Why, after multiple requests, I have never received a copy of Assistant Administrator William Wehrum's recusal statement, a statement which under ethics rules should have been completed many months ago;

Please find attached a copy of Mr. Wehrum's recusal statement.

- c. Who was responsible for the no-bid contract EPA gave to Definers, a Republican opposition research firm associated with dark money efforts behind Scott Pruitt's confirmation;

As explained in our April 27, 2018 letter to you, in July 2017 the EPA began acquisition planning to procure real-time coverage of media stories for specific topics, event, and announcements relevant to the agency. After determining that Definers would be able to provide that real-time coverage, and that such coverage for specific events was not provided by other companies, the EPA awarded a purchase order to Definers for those services on December 7, 2017. At Definers' request, the EPA terminated the awarded purchase order on December 19, 2017, before any work was initiated. The EPA incurred no costs from the date of award to the date of termination.

As explained in our April 27, 2018 letter and discussed with your staff, the EPA has a centralized search for records related to Definers currently underway. We have delivered records to your staff on April 27, 2018, May 10, 2018, July 23, 2018, and August 23, 2018, and we will continue to deliver responsive documents on a rolling basis as they become available.

- d. Why EPA has never disclosed copies of Bob Murray's action plan, either through FOIA or in response to my requests, when a copy of that plan addressed to Scott Pruitt was disclosed under FOIA by the Department of Energy;

As explained in our November 28, 2017 and February 1, 2018 letters to you, the agency has conducted centralized Outlook searches of EPA officials that would have been engaged on this topic. These searches did not capture any instances of "action plan." We are conducting additional searches and continuing to locate and review documents relating to the Clean Power Plan, including those that may yield documents responsive to your request. We will be in touch if and when responsive documents are available for release.

- e. Why the formaldehyde assessment has been blocked from moving through the normal review process.

As explained in our July 5, 2018, response to your May 17 letter, the EPA's Integrated Risk Information System (IRIS) program informs decisions under a number of statutes, including the Comprehensive Environmental Recovery, Compensation, and Liability Act, the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, and the Toxic Substances Control Act. The EPA is committed to ensuring that the IRIS Program provides high-quality, health-based assessments that adhere to the highest standards of scientific review. Prior to releasing any assessment, the EPA conducts a rigorous and robust review process to ensure agency decisions to protect human health and the environment are based on high quality science. The agency continues to discuss the formaldehyde assessment internally and has no further updates to provide at this time.

If you can't commit to providing full answers to these inquiries within two weeks of your response to this question, please explain the continued delay.

74. The hearing at which you testified was entitled "Examining EPA's Agenda: Protecting the Environment and Allowing America's Economy to Grow." You and I had a chance to discuss two climate change-related issues that touch on both of these subjects. The first of these subjects is the carbon bubble, which refers to the risk that too much investment in the fossil fuel industry will lead to a situation in which many fossil fuel assets wind up stranded, setting up a chain reaction economic crash in which total losses may equal or exceed those of the 2008 financial crisis. The economic literature we discussed all suggests that the best way to avoid such a crash is to begin decarbonizing our economy now rather than later. The Bank of England happens to agree with this view as well. In light of this, please explain how:

- a. EPA's plan to repeal the Clean Power Plan and replace it with something far weaker is consistent with sending the sort of clear signal economists and policy makers recommend that we will begin decarbonizing our economy now in order to reduce the future risk of stranded fossil fuel assets provoking an economic crash;

The EPA proposed to repeal the CPP on October 16, 2017 (82 FR 48035). In that proposed repeal, EPA asserted that the best system of emission reduction (BSER) in the CPP exceeded EPA's authority under CAA section 111 because it established the BSER using measures that applied to the power sector as whole, rather than measures that apply at and to, and can be carried out at the level of, individual facilities. On August 21, 2018, the administrator issued a proposed replacement rule (the Affordable Clean Energy Rule) that he believes is more consistent both with the authorities under 111(d) and the types of technologies currently available to reduce CO₂ emissions at existing coal-fired power plants.

- b. EPA's plan to roll back fuel economy standards for cars is consistent with sending the sort of clear signal economists and policy makers recommend that we will begin decarbonizing our economy now in order to reduce the future risk of stranded fossil fuel assets provoking an economic crash.

The EPA and the Department of Transportation's Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, issued on August 1, 2018, projects economic benefits, including a reduction in regulatory costs, of more than \$252 billion (present value estimate, 3% discount rate) through model year 2029, and societal net benefits of \$176 billion (present value estimate, 3% discount rate). The corresponding estimates using 7% discount rates are \$192 billion and \$131 billion. The agencies' proposal reflects a balance of a number of factors, including safety, costs, benefits, technology, fuel conservation, and pollution reduction, and we also seek comment on a wide range of alternatives.

- 75. The other economic risk that we discussed involves the prospect of a coastal real estate crash. Numerous highly regarded sources are warning that this country faces the prospect of seeing hundreds of billions of dollars if not trillions of dollars in coastal residential and commercial real estate value wiped out over the coming decades as sea levels rise due to climate change. Freddie Mac, the Union of Concerned Scientists, and the insurance industry trade publication *Risk & Insurance* are all warning of this prospect. One new study indicates that \$7.4 billion in real estate values have already been wiped out due to sea level rise along the southeast coast since 2005. In light of this, please explain how:

- a. EPA's plan to repeal the Clean Power Plan and replace it with something far weaker is consistent with the kind of serious decarbonization we need if we are to avoid the most catastrophic consequences of sea level rise;

The EPA proposed to repeal the CPP on October 16, 2017 (82 FR 48035). In that proposed repeal, EPA asserted that the best system of emission reduction (BSER) in the CPP exceeded EPA's authority under CAA section 111 because it established the BSER using measures that applied to the power sector as whole, rather than measures that apply at and to, and can be carried out at the level of, individual facilities. On August 21, 2018, the administrator issued a proposed replacement rule (the Affordable Clean Energy Rule) that he believes is more consistent both with the authorities under 111(d) and the types of technologies currently available to reduce CO₂ emissions at coal-fired power plants.

- b. EPA's plan to roll back fuel economy standards for cars is consistent with the kind of serious decarbonization we need if we are to avoid the most catastrophic consequences of sea level rise.

Under the EPA/DOT SAFE Vehicles Rule proposal, EPA relied on the estimates of climate impacts presented in the NHTSA Draft Environmental Impacts Statement. The NHTSA analysis indicates that by 2100, the proposed

alternative would result in an increase of 7,400 million metric tons of CO₂, an increase in global temperature of 3/1000th of one degree Celsius, and a projected sea level rise ranging from 76.28 centimeters (30.03 inches) under the No Action Alternative (i.e., the existing EPA GHG standards) to 70.34 centimeters (30.06 inches) under the proposed alternative, for a maximum sea level increase of 0.06 centimeters (0.02 inches) by 2100. Although GHG emissions would be higher under this proposal compared to EPA's existing standards, in light of the assessment presented in the proposal indicating higher vehicle costs and associated impacts on consumers, safety, and other factors including the increase in GHG emissions, EPA believes the proposal is an appropriate balancing of the factors EPA must consider when setting these standards.

76. Your predecessor instituted a policy that prohibited scientists who receive EPA grant money from serving on EPA's science advisory boards under the pretext that this constituted a conflict of interest. However, he appointed many individuals from regulated industries to EPA's science advisory boards.

- a. Please explain how serving on an EPA science advisory board while receiving EPA grant money constitutes a conflict of interest but serving on an EPA science advisory board while working for or receiving funding from a regulated industry does not.

The directive supports that any person serving on an EPA science advisory committee must be fully independent from the EPA. Any potential lack of independence or potential conflict with EPA, including financially, could affect the advice that is given. Past and current members of federal advisory committees come from a wide range of backgrounds, including academia, state/local/tribal governments and from the regulated community. Furthermore, the process for serving on a federal advisory committee requires disclosure of financial conflicts of interest. Agency policies, including ethics-related and conflict of interest guidelines, can be found at:

- <https://www.epa.gov/faca/strengthening-and-improving-membership-epa-federal-advisory-committees>
- <https://www.epa.gov/sites/production/files/2015-02/documents/ethicsadvisory.pdf>
- <https://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument>

- b. Will you commit to reversing your predecessor's policy prohibiting scientists who receive EPA grant money from serving on EPA's science advisory boards?

There is no plan to reverse the directive.

77. There have been reports that EPA political appointees are refusing to put new policies in writing and are instead insisting that career staff follow verbal instructions. Will you commit to requiring that all policies, guidance, and other similar complex instructions be put in writing before career staff are instructed to follow them?

I do not have any specific knowledge of these practices and always seek to provide my directions clearly in writing.

78. During Administrator Pruitt's tenure, scientists associated with the Narragansett Bay National Estuary Program were stopped from presenting their work. What steps have you taken since becoming acting administrator to ensure scientists are not silenced, including those working and presenting on climate change and its consequences?

It is the EPA Office of Research and Development's (ORD) decision about scientists participating in events. ORD will continue to conduct research outlined in our STRAPs reflecting Congressional appropriations.

EPA has one of the strongest Scientific Integrity policies and one of the most robust Scientific Integrity training programs in the federal government. EPA's Scientific Integrity Policy doesn't just apply to EPA scientists; it applies to all EPA employees, including scientists, managers, political appointees, and other staff. EPA regularly makes improvements to its Scientific Integrity program to make it even stronger. You can read more about this policy at epa.gov/osa/basic-information-about-scientific-integrity.

I am committed to upholding EPA's Scientific Integrity Policy, which ensures that the Agency's scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference. The policy recognizes the distinction between scientific information, analyses, and results from policy decisions based on that scientific information. Policy makers within the Agency weigh the best available science, along with additional factors such as practicality, economics, and societal impact, when making policy decisions.

I have met with the EPA Scientific Integrity Official, Francesca Grifo, and supported the scheduling of the EPA Scientific Integrity Program's Annual Employee Conversation with the Scientific Integrity Official on Tuesday, June 12, 2018.

79. What is the EPA's role in helping states and coastal communities mitigate or adapt to the challenges projected for the shellfish industries or the thousands of individuals that make their living off of this billion-dollar resource?

The EPA has a number of regulatory and non-regulatory efforts in place to help states and coastal communities address current and projected challenges for the shellfish industry.

The EPA uses the Agency's grant and regulatory authorities under the Clean Water Act (CWA) to protect and improve water quality, with an emphasis on ensuring that shellfish resources can thrive and continue to be safe for human consumption. This includes providing training and monitoring support to states and tribes in developing and refining water quality standards, listing impaired waters, developing Total Maximum Daily Loads (TMDLs), and addressing both nonpoint and point sources of pollution. The EPA also provides guidance to states, territories, and tribes about issuing fish and shellfish consumption advisories, and determining safe human consumption rates of fish and shellfish, and has jointly issued EPA/FDA safe eating guidelines.

In addition, the EPA serves as the co-chair of the Hypoxia Task Force, a coalition of states, federal agencies, and tribes working to better manage the pollution sources that threaten the fish and shellfish industries in targeted areas. The EPA also works directly with coastal communities through a number of federal and local partnerships, including the National Estuary Program, to improve local resilience by helping coastal communities to develop adaptation strategies for future impacts to infrastructure, fish and shellfish industries, and natural resources. This type of work includes conducting vulnerability assessments in order to identify, analyze, prioritize, and reduce risk at the community level and water quality monitoring to better understand and reduce the impacts of changing water chemistry. The EPA is also conducting research to examine the effect of nutrients in coastal systems and an economic analysis of the impacts of ocean and coastal acidification on the shellfish industry.

80. The Save Our Seas Act, which passed the Senate last August and the House last week, urges the administration to pursue a number of activities aimed at reducing the influx of plastic waste into the oceans, including investing in research into ocean biodegradable plastic alternatives, pursuing new international agreements focused on land-based plastic pollution, providing technical assistance to improve waste management in developing countries, and considering marine debris in future trade agreements.

- a. What role can or does EPA play in achieving these goals?
- b. Where does addressing marine debris rank in your priorities at EPA?

The EPA recognizes the severity of the global problem of trash pollution in the ocean, and in freshwater systems as well, and is contributing to the Administration's activities to address marine litter. The EPA, in coordination with NOAA and other federal partners, is taking proactive steps to address this problem, primarily through the work of our multi-faceted Trash Free Waters (TFW) program. The EPA's TFW program assists states, municipalities, and

businesses to work together to define more effective ways to reduce litter, prevent trash entry into water, and minimize packaging waste through stakeholder consultation, strategic planning, pilot initiatives, and public/private collaboration.

In addition to the EPA's efforts under the TFW program, the Agency is engaging in a variety of international marine trash forums, exploring new opportunities to reduce plastic trash loadings into the ocean from China and other high-contributing nations. The EPA has also identified microplastics as a research priority, focusing on quantifying the extent of plastic pollution in all aquatic systems and assessing the possibility of human health impacts from microplastics in the environment. In addition, the EPA's recycling and sustainable materials management programs are working to reduce the volume of plastic trash in the waste management system and consider how the Agency's waste system expertise could benefit countries that lack effective waste management infrastructure.

Senator Wicker:

81. On July 20, 2018, the U.S. Court of Appeals for the Fourth Circuit vacated and remanded the EPA's denial of a 2016 petition for small refinery hardship filed by Ergon – West Virginia, Inc., under the Renewable Fuel Standard. What actions is the EPA prepared to take to respond to this court ruling? What is the expected timeline for such actions?

EPA continues to review next steps in light of the court's ruling. We are not in a position to share a timeline at this point, but understand the need to move quickly.

Attachment, Question 52b



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 21 2018

OFFICE OF
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The Honorable Thomas R. Carper
United States Senate
Washington, D.C. 20510

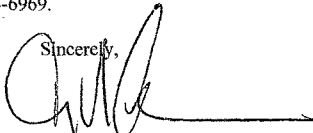
Dear Senator Carper:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

On April 27, 2018, the EPA updated its website to include an explanation of the impact of the FARM Act on the reporting of air emissions from animal waste at farms under both CERCLA and EPCRA, which can be found at: <https://www.epa.gov/epcra/cercla-and-epcra-questions-and-answers-farm-act>. Consistent with this guidance, the EPA is currently engaged in a rulemaking process to revise the EPCRA regulations to address the impact of the FARM Act on the reporting of air emissions from animal waste at farms under EPCRA. EPA is actively considering many of the substantive issues raised in your letter and will be seeking public comment on the proposed rule, which will reflect the EPA's interpretation of the relationship between the CERCLA and EPCRA release reporting requirements.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 21 2018

OFFICE OF
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The Honorable Bernard Sanders
United States Senate
Washington, D.C. 20510

Dear Senator Sanders:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator



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AUG 21 2018

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The Honorable Sheldon Whitehouse
United States Senate
Washington, D.C. 20510

Dear Senator Whitehouse:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator



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WASHINGTON, D.C. 20460

AUG 21 2018

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The Honorable Jeffrey A. Merkley
United States Senate
Washington, D.C. 20510

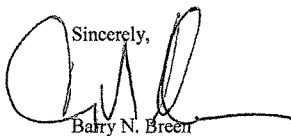
Dear Senator Merkley:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Green
Acting Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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AUG 21 2018

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The Honorable Benjamin L. Cardin
United States Senate
Washington, D.C. 20510

Dear Senator Cardin:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator



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The Honorable Chris Van Hollen
United States Senate
Washington, D.C. 20510

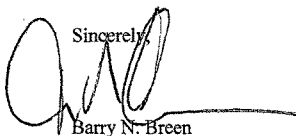
Dear Senator Van Hollen:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

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Sincerely,

Barry N. Breen
Acting Assistant Administrator



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The Honorable Kirsten Gillibrand
United States Senate
Washington, D.C. 20510

Dear Senator Gillibrand:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator



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The Honorable Cory A. Booker
United States Senate
Washington, D.C. 20510

Dear Senator Booker:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator

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AUG 21 2018

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EMERGENCY MANAGEMENT

The Honorable Edward J. Markey
United States Senate
Washington, D.C. 20510

Dear Senator Markey:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

On April 27, 2018, the EPA updated its website to include an explanation of the impact of the FARM Act on the reporting of air emissions from animal waste at farms under both CERCLA and EPCRA, which can be found at: <https://www.epa.gov/epcra/cercla-and-epcra-questions-and-answers-farm-act>. Consistent with this guidance, the EPA is currently engaged in a rulemaking process to revise the EPCRA regulations to address the impact of the FARM Act on the reporting of air emissions from animal waste at farms under EPCRA. EPA is actively considering many of the substantive issues raised in your letter and will be seeking public comment on the proposed rule, which will reflect the EPA's interpretation of the relationship between the CERCLA and EPCRA release reporting requirements.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 21 2018

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE
NOW THE
OFFICE OF LAND AND
EMERGENCY MANAGEMENT

The Honorable Tammy Duckworth
United States Senate
Washington, D.C. 20510

Dear Senator Duckworth:

Thank you for your letter of May 25, 2018, to the U.S. Environmental Protection Agency regarding guidance published by the EPA on reporting requirements for air emissions from animal waste at farms under section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On March 23, 2018, the "Fair Agricultural Reporting Method Act" (FARM Act) was enacted as part of the "Consolidated Appropriations Act, 2018." The FARM Act exempted air emissions from animal waste at farms from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, farm owners and operators are no longer required to report these types of releases under CERCLA. The EPA published a final rule on August 1, 2018, revising its regulations under CERCLA to codify the reporting exemption provided by the FARM Act.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at janifer.pamela@epa.gov or at (202) 564-6969.

Sincerely,

Barry N. Breen
Acting Assistant Administrator

Attachment, Question 59a

Lead Office	Category	Title
Region 1	Land and Emergency Management	MA DEP/EPA Region 1 RCRA Part B Licensing Project
Region 1	Planning	NH DES/ EPA Region 1P&C List Development
Region 1	Planning	NH DES/EPA Region 1 Performance Partnership Agreement Process
Region 1	Water	NPDES Clearinghouse Intranet Site 5S Project
Region 1	Enforcement and Compliance	OES Tracking Database Lean Project
Region 1	Information Management/IT	Program Activity Reporting
Region 1	Enforcement and Compliance	RCRA Authorization
Region 1	Information Management/IT	Region 1 Air Branch Q share Migration
Region 1	Facilities and Infrastructure	Region 1 Annual Facility Inventory Process
Region 1	Contracts and Grants	Region 1 Co Sponsorship Agreement
Region 1	Water	Region 1 NPDES Draft Permit Process
Region 1	Water	Region 1 NPDES Draft Permit Routing Process
Region 1	Land and Emergency Management	Region 1 RCRA NOV Inspection Reporting Process
Region 1	Contracts and Grants	Region 1 Regional Laboratory Small Purchase Process
Region 1	Information Management/IT	Regional Events Calendar
Region 1	Air and Radiation	SIP Project
Region 1	Human Resources	Travel Authorization Process
Region 2	Contracts and Grants	CASD Grants Processing
Region 2	Information Management/IT	Clean Water Division (CWD) Data Management
Region 2	Communications	Controlled Correspondence - Phase 2

Attachment, Question 59a

Region 2	Communications	Correspondence Management Process Improvement
Region 2	Other - Laboratory operations	DESA Laboratory Chain-of-Custody & Sample Login Process
Region 2	Information Management/IT	E-Discovery Process Improvement
Region 2	Contracts and Grants	EPA's Grant Application Process in the Virgin Islands
Region 2	Enforcement and Compliance, Water, Planning	MPCB SOP on CWA Enforcement Cases
Region 2	Enforcement and Compliance, Water	NPDES Inspection Reporting Process
Region 2	Communications	ORA Meeting Scheduling Improvement
Region 2	Other - Inventory control & purchasing	Purchasing of Common Laboratory and Field Supplies
Region 2	Other - Travel	R2 International Travel process
Region 2	Enforcement and Compliance	RCRA Enforcement
Region 2	Contracts and Grants	Region 2 Grants Closeout Process
Region 2	Enforcement and Compliance	Region 2 Virgin Islands Stormwater Enforcement
Region 2	Human Resources	Region 2 Volunteer Intern On/Off-Boarding Process
Region 2	Communications,	Stakeholder Complaints/Inquiries Tracking

	Information Management/IT, Planning	System
Region 2	Information Management/IT, Land and Emergency Management, Planning	Superfund Five Year Review (FYR) Process Improvement
Region 2	Human Resources	Telework Signup and Recertification Process
Region 3	Human Resources	Employee Exit Process
Region 3	Land and Emergency Management	Federal Facilities/Office of Regional Counsel Docket Meeting
Region 3	Enforcement and Compliance	ICERTS - Intergrated Compliance Enforcement Reporting and Tracking System
Region 3	Contracts and Grants	Lean on ESAT Administrative Duties – Region 3
Region 3	Enforcement and Compliance	NPDES Administrative Order on Consent
Region 3	Enforcement and Compliance	NPDES- SCAFO concurrence
Region 3	Human Resources	RA Event Planning Lean
Region 3	Air and Radiation	Region 3 Air Protection Division SIP concurrence
Region 3	Air and Radiation	Region 3 Air Protection Division SIP concurrence
Region 3	Land and Emergency Management	Region 3 Analytic Support Process
Region 3	Contracts and Grants, Land and Emergency Management, Other - Laboratory	Region 3 Analytic Support Process
Region 3	Water	Region 3 Clean Water Act Section 404 Aquatic Resources Regulatory Permit Review Process
Region 3	Enforcement and Compliance	Region 3 Enforcement Tracking
Region 3	Enforcement and Compliance	Region 3 FIFRA Case Conclusion Process
Region 3	Financial Management	Region 3 OPM Support Budget process
Region 3	Human Resources	Region 3 Onboarding
Region 3	Human Resources, Planning	Region 3 Onboarding

Region 3	Financial Management	Regional Support Budget Submittal Process
Region 3	Enforcement and Compliance	State Review Framework Tracking
Region 4	Other - Administrative	OPM/IO Deliverables Report
Region 4	Air and Radiation	R4 Air Technical Systems Audit Process Review
Region 4	Facilities and Infrastructure	R4 Property Utilization Process Lean Process Map Event – FY 2015
Region 4	Financial Management	R4 Unliquidated Obligations Process Review
Region 4	Contracts and Grants	RCRA Enforcement and Permitting Assistance (REPA) Contract Task Order Award Process
Region 4	Human Resources	Region 4 National Honor Nominations Awards
Region 4	Enforcement and Compliance	Region 4 Air Planning and Implementation Branch Regulatory and Permitting Actions Review Process Optimization
Region 4	Information Management/IT	Region 4 Automatic Computer Shutdown
Region 4	Planning	Region 4 CSEB Program Administrative Enforcement Process Lean Rapid Event
Region 4	Communications	Region 4 Conference Lines
Region 4	Contracts and Grants	Region 4 Continuing Environmental Programs Grants Award Process
Region 4	Facilities and Infrastructure	Region 4 Desktop Printer Reduction
Region 4	Contracts and Grants	Region 4 Large Procurement Process Review
Region 4	Information Management/IT	Region 4 Library Services
Region 4	Facilities and Infrastructure	Region 4 Medical Surveillance

Region 4	Enforcement and Compliance	Region 4 National Pollutant Discharge Elimination System (NPDES) Program Administrative Enforcement Process Rapid Event
Region 4	Communications	Region 4 OEJS EJ Complaints Process
Region 4	Facilities and Infrastructure	Region 4 Office Supplies
Region 4	Human Resources	Region 4 On-Boarding Process: Lean Rapid Event
Region 4	Facilities and Infrastructure	Region 4 Overtime Utilities
Region 4	Contracts and Grants	Region 4 Personal Property Management Acquisition and Delivery Process
Region 4	Information Management/IT	Region 4 Printers/Multifunction Devices
Region 4	Land and Emergency Management	Region 4 RCRA FIRST Lean Transference Project
Region 4	Information Management/IT	Region 4 Regional Records
Region 4	Facilities and Infrastructure	Region 4 Right-sizing/Consolidation of Vehicle Fleet & VARS Implementation
Region 4	Facilities and Infrastructure	Region 4 Space Reduction/South Florida Office
Region 4	Other - Employee Benefits	Region 4 Space Release--Sam Nunn Federal Building
Region 4	Financial Management	Region 4 Transit/ GoCard
Region 4	Communications	Region 4 Tribal Consultation Tracking and Reporting Improvements
Region 4	Communications	Region 4 Webinars for Outreach
Region 4	Information Management/IT	Region 4 Wireless Network
Region 5	Information Management/IT	Office of Regional Counsel (ORC)/Superfund (SFD) Information Request Process (EPCRA/CERCLA § 103) -
Region 5	Contracts and Grants	R5 GLNPO Electronic Grant Files Lean Transference Project
Region 5	Enforcement and Compliance	R5 Lean LCD RCRA FIRST Transference
Region 5	Enforcement and Compliance	R5 Office of Enforcement Compliance Assurance (OECA) National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) Review Process
Region 5	Communications	R5 Office of the Regional Administrator (ORA)R5Online Intranet Front Page Process Project
Region 5	Contracts and Grants	R5 RMD/CRL Streamlining TDF Issuance Project

Region 5	Human Resources	R5 Regional Honor Awards Process
Region 5	Financial Management , Contracts and Grants	R5 Resources Management Division (RMD), Chicago Regional Lab (CRL) Lab Process Project
Region 5	Other - Records	R5 Resources Management Division (RMD)/Office of Regional Council (ORC) Records Project
Region 5	Communications, Water	R5 Water Division (WD) Citizen Complaints Tracking and Handling Process
Region 5	Enforcement and Compliance	Region 5 Air Enforcement/Office of Regional Council Process
Region 5	Enforcement and Compliance	Region 5 Air and Radiation Division Inspection Reports Process
Region 5	Human Resources	Region 5 Employee Exit Process
Region 5	Human Resources	Region 5 Renovator Training Accreditation Program (RTAP)
Region 5	Land and Emergency Management	Region 5 Superfund Consent Agreement and Final Order Lean Project
Region 5	Planning	Region 5-ORA-WD/Wisconsin DNR Performance Partnership Agreement (PPA) Process Improvement
Region 5	Financial Management	Replicating and Scaling Up Superfund CAFO Lean Project Recommendation: Eliminate Transmittal Memo from CAFO Approval Packages
Region 6	Communications	6EN-A Air Enforcement Mail Process
Region 6	Enforcement and Compliance	EPCRA Enforcement Process
Region 6	Communications	Enforcement FOIA Process
Region 6	Enforcement and Compliance	Hazardous Waste Combustion
Region 6	Financial Management , Planning	Houston Lab Equipment Procurement
Region 6	Enforcement and Compliance	Inspection Report Normalization
Region 6	Chemical Safety and Pollution Prevention	MS4 Audit Streamlining

Region 6	Information Management/IT	NMED UST A/B Operator Training Tracking
Region 6	Enforcement and Compliance	NPDES Permitting (FY2015 Replication project)
Region 6	Enforcement and Compliance	National Pretreatment Audit Process
Region 6	Enforcement and Compliance	Pesticide (FIFRA) State Enforcement Credentials
Region 6	Enforcement and Compliance	Pesticides Enforcement
Region 6	Communications	Public Notices for Agency Actions/Rulemaking
Region 6	Enforcement and Compliance	Quality Assurance Project Plans
Region 6	Enforcement and Compliance	R6 Greenhouse Gas (GHG) Permitting Lean Project
Region 6	Enforcement and Compliance	RCRA Corrective Action
Region 6	Enforcement and Compliance	RCRA Enforcement Process
Region 6	Enforcement and Compliance	RCRA Procurement Package to Contracting
Region 6	Other - Travel	Region 6 Travel
Region 6	Enforcement and Compliance	Spill Prevention Control Inspection Finalization Process
Region 6	Enforcement and Compliance	State Implementation Plan Review Process
Region 6	Information Management/IT	Superfund Enforcement Streamlining
Region 6	Enforcement and Compliance	TCEQ UST Inspection Process
Region 6	Other - Tribal	Treatment As a State (TAS)
Region 6	Chemical Safety and Pollution Prevention	UIC Direct Implementation
Region 6	Chemical Safety and Pollution Prevention	UIC Enforcement
Region 7	Water	4 State-EPA Region 7 Wastewater Permitting (NPDES) Review – Kaizen Event
Region 7	Air and Radiation	4 State-EPA Region 7 Clean Air Act State Implementation Plan – Kaizen Event
Region 7	Water	4 State-EPA Region 7 Water Quality Standards Review – Kaizen Event

Region 7	Air and Radiation	Air Permits Review Process
Region 7	Land and Emergency Management	Brownfields reference file library
Region 7	Enforcement and Compliance	Chemical Risk Enforcement Branch CBI Process
Region 7	Planning	Clean Water Act 106 Workplan Negotiation with State Partners
Region 7	Communications	DWSRF Annual Report Review
Region 7	Enforcement and Compliance	ENST/EDAB guidance library
Region 7	Human Resources	Employee Separation Process
Region 7	Information Management/IT	Employee and Services data
Region 7	Financial Management	Financial Assurance Package Coordination
Region 7	Water	Grant File Streamlining - CANCELLED
Region 7	Land and Emergency Management	HWMT Survey and Disposal Form
Region 7	Other - Laboratory Operations	Laboratory Sample Planning Process
Region 7	Human Resources	Leadership Development Program
Region 7	Land and Emergency Management	Manager Task assignments workflow
Region 7	Communications	Manager's Network Position Development
Region 7	Water	NPS Logic Model Development
Region 7	Air and Radiation	NSPS-MACT-NESHAP Annual Delegations

Region 7	Facilities and Infrastructure	Organize the STC Stockroom
Region 7	Human Resources	Overtime/Comp Time Process
Region 7	Communications	PPG Progress Reports- State Environmental Agencies
Region 7	Contracts and Grants	Procurement Process for Lab Equipment and Supplies
Region 7	Enforcement and Compliance	Quarterly Enforcement target concurrence
Region 7	Enforcement and Compliance	R7 Compliance Inspection Tracking System
Region 7	Communications	R7 Executive Correspondence
Region 7	Facilities and Infrastructure	R7 GOV fleet review
Region 7	Information Management/IT	R7 Laboratory and IT support process
Region 7	Chemical Safety and Pollution Prevention	R7 Lead Paint Enforcement Workflow
Region 7	Other - Laboratory Operations	R7 Sample Disposal Process
Region 7	Financial Management	R7 Travel Cards
Region 7	Other - Sustainability	RCPP Outreach Materials Storage Rm 55
Region 7	Enforcement and Compliance	RCRA Enforcement Case Status & Prioritization matrix
Region 7	Enforcement and Compliance	Region 7 CAA 112(R) Administrative Enforcement Actions

Region 7	Enforcement and Compliance	Region 7 CAFO Inspection Reports Targeting and Coordination
Region 7	Contracts and Grants	Region 7 Clean Water Act Section 319 Grant Process Lean Kaizen Event
Region 7	Information Management/IT	Region 7 Concurrence Signature Process
Region 7	Information Management/IT	Region 7 FOIA Response Process
Region 7	Other - Lab DOC Process	Region 7 Lab's DOC Process
Region 7	Contracts and Grants	Region 7 Laboratory Cubitainer Replacement
Region 7	Enforcement and Compliance	Region 7 Multi-Media Case Processing
Region 7	Human Resources	Region 7 New Employee Onboard Process
Region 7	Communications	Region 7 Regional Daily Digest
Region 7	Human Resources	Region 7 Regional Programmatic Training
Region 7	Human Resources	Region 7 SF-52 Internal Routing
Region 7	Land and Emergency Management	Region 7 Spill Prevention, Control, and Countermeasure -- Lean Mini-Kaizen Event
Region 7	Land and Emergency Management	Region 7 Superfund Daily Document Record Process
Region 7	Information Management/IT	Regional Delegations
Region 7	Planning	Regional Issuances Process Update
Region 7	Land and Emergency Management	Regions 3, 7 RCRA Corrective Action CMS Process
Region 7	Land and Emergency Management	Regions 3, 7 RCRA Facility Investigation Process

Region 7	Information Management/IT	SUPR FOIA Process
Region 7	Contracts and Grants	Santee Sioux - Region 7 workplan negotiation
Region 7	Land and Emergency Management	Site Eligibility Tracking & Management Process
Region 7	Contracts and Grants	Site-Specific Contracting (Planning Phase)
Region 7	Land and Emergency Management	Superfund CBI Room Cataloging
Region 7	Human Resources	Training Tracking
Region 7	Financial Management	Travel Card Atypical Usage
Region 7	Land and Emergency Management	UECA development and finalization process improvement
Region 7	Communications	WWPD FOIA Process
Region 7	Water	Water Enforcement Process
Region 8	Land and Emergency Management	ATSDR Health Consultations for Emergencies – Initiation, Review and Clearance
Region 8	Other - Document Review and Clearance	ATSDR Non-Emergency Public Health Document -- Review and Clearance
Region 8	Water	Colorado Water Supply Lean Project: Initiation of NEPA and Scoping (Kaizen Event)
Region 8	Water	Colorado Water Supply Lean Project: Initiation of NEPA and Scoping (Value Stream Mapping Event)
Region 8	Water	Region 8 DW Program SDWA Rule Management data submittal for compliance improvement

Region 8	Enforcement and Compliance	Region 8 NPDES Enforcement Documents: Processing & E-concurrence
Region 8	Contracts and Grants	Region 8 Office of Communications & Public Involvement Procurement Process
Region 8	Contracts and Grants	Region 8 Pesticides State Grant Funding Allocation Process
Region 8	Facilities and Infrastructure	Region 8 Property Management Process Improvement
Region 8	Financial Management	Region 8 Regional Support Process Improvement
Region 8	Water	Region 8 Review of Sanitary Survey Document Handling Process for Wyoming Systems and Wyoming Tribal Systems.
Region 8	Contracts and Grants	Region 8 Tribal UST Grant Awards
Region 8	Financial Management , Land and Emergency Management	Superfund Special Accounts Payroll, Region 8
Region 8	Financial Management	UIC Financial Responsibility Process Improvement for Class II Underground Injection Control Wells
Region 8	Information Management/IT	Visual Management Board Development - Region 8 Information Management Team
Region 9	Communications, Information Management/IT	Document and Streamline RCRA Branch Project File Management

Region 9	Human Resources	Improve Time-to-Hire Process; from identification of position need to final offer letter (LSS)
Region 9	Human Resources	Improving the Mandatory Training Process (LSS)
Region 9	Human Resources	Improving the Travel Request Process (LSS)
Region 9	Enforcement and Compliance	Region 9 Enforcement Inspection Report Normalization (Lean)
Region 9	Financial Management	Region 9 Improve Processing and Tracking of Superfund Cost Recovery Packages (LSS)
Region 9	Land and Emergency Management	Region 9 NPDES Life Cycle (LSS)
Region 9	Human Resources	Review regional human capital services
Region 9	Financial Management	Review/reform the Regional Support Account (RSA) management process
Region 9	Financial Management	State Superfund Contract Billing (LSS)
Region 9	Communications	Streamline and Improve the FOIA Response Process at Region 9 (LSS)
Region 9	Financial Management , Information Management/IT, Planning	Streamline laboratory supplies purchasing mechanism
Region 9	Contracts and Grants	Streamline the Grant Enforcement Process (LSS)
Region 9	Contracts and Grants	Streamline the Procurement Request (PR) Package Process (LSS)
Region 9	Other - Quality Assurance	Streamline the QA plan review & approval process
Region 9	Land and Emergency Management	Streamlining Region 9 RCRA PCB Cleanup Review and Approval Process
Region 9	Human Resources	Streamlining the Region 9 Separation/Exit Process
Region 10	Human Resources	Employee Exit Process
Region 10	Water	Leaning phase III of Region 10's NPDES permitting process
Region 10	Communications	Leaning the FOIA Process in Region 10
Region 10	Air and Radiation	Region 10 CAA State Implementation Plan Process

Region 10	Information Management/IT	Region 10 Correspondence Management System (CMS) Process
Region 10	Water	Region 10 NPDES Administrative Penalty Project
Region 10	Human Resources	Region 10 New Personnel Workstation Setup Process Lean Event
Region 10	Financial Management	Region 10 Travel Lean
AO	Information Management/IT	OA (OEX/OCIR) Correspondence Process Lean Project
AO	Planning	OA (OP) EPA Performance Track Program Application Improvement – Value Stream Mapping Event
AO	Information Management/IT	OA (OP) Learning the EPA OP Review of Documents Published in the Federal Register
OAR	Facilities and Infrastructure	Certification Fees
OAR	Air and Radiation	ENERGY STAR certification for industrial plants
OAR	Air and Radiation	Federal Ambient Air Monitoring Audit Process
OAR	Facilities and Infrastructure	Hazards and Facilities Review
OAR	Air and Radiation	Increasing the Efficiency of Sample Management's Receiving and Disposal Processes
OAR	Information Management/IT	MOVES Data Submission
OAR	Air and Radiation	NEEDS Database
OAR	Air and Radiation	National Air Toxics Assessment (NATA)
OAR	Air and Radiation	National Emissions Inventory (NEI) Nonpoint
OAR	Air and Radiation	OAR (OAP) Part 75 Continuous Emissions Monitoring (CEM) Petition Response Process
OAR	Information Management/IT	OAR (OAQPS) E-Enterprise Air Emissions Data submission, review, and use

OAR	Information Management/IT	OAR (OPAR/IO) Document production in response to FOIAs and Congressional requests—OAR-wide.
OAR	Air and Radiation	OAR (OTAQ) Technical/Engineering Hardship application process for non-road diesel equipment manufacturers participating in TPED
OAR	Information Management/IT	OAR Congressional Correspondence Response Process Improvement
OAR	Information Management/IT	OAR Federal Managers Financial Integrity Act (FMFIA) response process
OAR	Air and Radiation	OAR GHG Reporting Rule
OAR	Communications	OAR IO speechwriting
OAR	Air and Radiation	OAR Renewable Fuel Standards Pathway Petition Process
OAR	Air and Radiation	OAR Significant New Alternatives Program (SNAP) for ozone-depleting substances
OAR	Air and Radiation	OAR Upstream Inventory Development Process
OAR	Air and Radiation	SmartWay Shipper Engagement
OAR	Air and Radiation	US GHG Inventory Compilation and Data Sharing
OAR	Air and Radiation	Vehicle Test Scheduling
OAR	Enforcement and Compliance	Vehicle and Engine Defect and Recall Reporting
OARM	Human Resources	Agency Reorganization Process
OARM	Contracts and Grants	Contract Closeout Process Improvement
OARM	Human Resources	LEAN Office of Diversity, Advisory Committee Management Outreach Membership Steps
OARM	Contracts and Grants	Leaning the Administrative Baseline and Unliquidated Obligation Review (BULO)

OARM	Human Resources	OARM SF-182 Training Approval Process
OARM	Human Resources	OARM Agency On-Boarding/Off-Boarding Process
OARM	Facilities and Infrastructure	OARM EPA/RTP Facilities Task Orders
OARM	Communications	OARM EPA/RTP Graphics Design & Print Service
OARM	Planning	OARM FACA Membership Selection Process
OARM	Communications	OARM IO Internal/External Controlled Correspondence Management Tracking Process
OARM	Contracts and Grants	OARM – Office of Grants and Debarment Grants Closeout Process
OARM	Human Resources	OARM – RTP HR Shared Service Center Position Description Distribution
OARM	Human Resources	ORD EPA RTP Separation Check-Out Process
OARM	Human Resources	Off-Boarding/Employee Exit Business Process Improvement Project
OARM	Contracts and Grants	Quick Requisition How to Guide
OARM	Facilities and Infrastructure	Requisitions and APPs EAS Report – Sprint Lean Process
OARM	Information Management/IT	Security Clearance Process Managed between SSCs / Executive Resources / Personnel Security
OARM	Contracts and Grants	Technical Evaluation Panel Guide
OCFO	Financial Management	Budget Execution - Unliquidated Obligations (ULO) Lean for Contracts and Related Processes
OCFO	Financial Management	LVFC Interim Federal Financial Report (IFFR) Mini Lean
OCFO	Financial Management	National Superfund Cost Recovery Process
OCFO	Enforcement and Compliance	OCFO Corrective Action Tracking
OCFO	Human Resources	OCFO End-of-Year Performance Reporting Process
OCFO	Planning	OCFO National Program Manager Guidance Process

OCFO	Contracts and Grants	OCFO Reimbursable Interagency Agreements Payment Process
OCFO	Financial Management	OCFO Software Applications Accountability Process
OCFO	Financial Management	OCFO Unliquidated Obligations (ULO) Reviews
OCFO	Land and Emergency Management	OECA Superfund State Contract (SSC) Accrual Process Lean Event
OCFO	Financial Management	PPM-P1-1-Site Specific Redistribution (SAP)
OCFO	Financial Management	PPM-P1-2-SAP Obligations
OCFO	Financial Management	PPM-P1-3-Contract Site Redistribution Lean
OCFO	Financial Management	PPM-P1-5-IPP - LV Cash Lean
OCFO	Financial Management	Payment Process Modernization
OCSPP	Chemical Safety and Pollution Prevention	12(b) Modernization
OCSPP	Chemical Safety and Pollution Prevention	CBI Review Process
OCSPP	Chemical Safety and Pollution Prevention	OCSPP (CCD) Chemical Data Reporting Process
OCSPP	Chemical Safety and Pollution Prevention	OCSPP (OPP) Antimicrobial Testing Program Lean Event Case Study – Value Stream Mapping Event
OCSPP	Chemical Safety and Pollution Prevention	OCSPP (OPP) OPP Process improvements (OPP Label Review, Approval, and Posting Process
OCSPP	Information Management/IT	OCSPP Federal Register Publication Process Improvement
OCSPP	Chemical Safety and Pollution Prevention	OCSPP Front-End Processing
OCSPP	Planning	OCSPP Improved Headquarters/Lead Region Coordination and Communication
OCSPP	Chemical Safety and Pollution Prevention	OCSPP Learning the Creation, Maintenance, Storage, and Retrieval of an OPP "Jacket"
OCSPP	Chemical Safety and Pollution Prevention	OCSPP Risk Assessment Groundwork
OCSPP	Chemical Safety and Pollution Prevention	OCSPP/ (CCD) TSCA Section 4 Test Rule Data Management Process
OECA	Other - FIFRA, pesticides	Good Laboratory Practices (GLP) Inspection LEAN Event
OECA	Human Resources	Improving OECA's Human Resources Operations and Recruitment Process

OECA	Enforcement and Compliance	Improving the OECA/OCEFT/NEIC Criminal Report Process
OECA	Communications, Enforcement and Compliance	OECA Information Channels
OECA	Information Management/IT	Smart Mobile Tools for Field Inspections (Smart Tools)
OECA	Enforcement and Compliance	Streamlining EPA process for addressing formal CAA rule applicability determination requests
OECA	Enforcement and Compliance	Streamlining OECA's Federal Enforcement & Compliance Data Reporting Process
OECA	Contracts and Grants	Streamlining the EAS Procurement Process for OECA/OCEFT/NEIC Field and Laboratory Supplies
OECA	Air and Radiation, Communications, Enforcement and Compliance	Streamlining the EPA Process for Addressing Formal CAA Rule Applicability Determination Requests
OEI	Information Management/IT	OEI FOIA Process
OEI	Information Management/IT	OEI IT Security Critical Patching for Workstations
OEI	Information Management/IT	OEI QA Reporting Process
OEI	Communications	OEI's Controlled Correspondence Lean Transference Project
OEI	Human Resources	Phase 2: Lean Provisioning
OEI	Other - Internal Assessments	Quality System Assessment Project
OGC	Human Resources	OGC Regional Attorney Hiring Process
OITA	Human Resources	OITA Establish a streamlined internal OITA On-boarding process for new employees
OITA	Information Management/IT	Office of International and Tribal Affairs Records Management Lean
OLEM	Planning	Improving the Use of Evidence in OLEM's Planning & Budgeting Process (Planning and Performance Reporting Process)
OLEM	Facilities and Infrastructure	Increase New Office 's Efficiency and Effectiveness
OLEM	Communications	OLEM Communication Strategy Process

OLEM	Land and Emergency Management	OLEM Process for Identifying and Documenting ARARs for Superfund Remedial Actions
OLEM	Land and Emergency Management	OLEM e-Manifest Project Management Plans
OLEM	Financial Management	Superfund ARARs Process
OLEM	Enforcement and Compliance	UST State Program Approval (SPA) Process
ORD	Financial Management	GAS Cylinder Bar Coding Scanning
ORD	Other - Operations	Improving supply closet management and maintenance
ORD	Information Management/IT	Leaning IRIS Steps 2-7
ORD	Human Resources	ORD EPA Safety and Health Management System (SHMS)
ORD	Communications	ORD Science Matters Magazine Publication Process
ORD	Human Resources	ORD Scientific and Technological Achievement Awards (STAA) Program
ORD	Financial Management	ORD Shared Administrative Resource Group Purchase Card Process
ORD	Human Resources	ORD Technical Qualifications Board (TQB)
ORD	Human Resources	ORISE Recruitment Process
ORD	Contracts and Grants	Onboarding/Deprovisioning Non-Federal Employees
ORD	Planning	Research Planning and Approval Process
ORD	Contracts and Grants	STAR Grant Program
ORD	Human Resources	Special Government Employee Process
OW	Water	303(d) and 305(b) Integrated Reporting (IR) Process
OW	Enforcement and Compliance	Leaning the Coordination of Aquatic Life Criteria to NPDES Permit
OW	Facilities and Infrastructure	Media Request
OW	Water	OW Endangered Species Act Consultation with USFWS & NOAA Fisheries
OW	Information Management/IT	OW Mobile Device Ordering Process
OW	Water	OW Water Quality Standards Approval/Disapproval Review Process with Region 10.
OW	Human Resources	Purchase Card Ordering Process

Description
MA DEP/EPA RCRA Part B Licensing Project This Kaizen event focused on streamlining the process for Hazardous Waste Transfer storage and disposal facilities in Massachusetts to renew their operating licenses. The time to renew licenses was <u>shortened from 2 years minimum to 8 months.</u>
NH DES/ EPA P&C List Development The scope of this project was from EPA's internal development of a draft Priorities and Commitments (P&C) List through negotiations between NH DES and EPA. The project defined the process and schedule for <u>developing the next P&C list by October 2015.</u>
NH DES/EPA Performance Partnership Agreement Process The scope of this project was from the discussions at the beginning of a new Performance Partnership Agreement (PPA) planning cycle through a signed PPA. The focus was on <u>clearly defining the step and schedule for completion to guide the development of a new multiyear PPA by October 1.</u>
Completed a 5S project in a digital environmental to organize and improve usefulness of NPDES Clearinghouse Site for EPA permit writers and NPDES managers.
The goal of this project is to improve Region's ability to track and manage enforcement work, to eliminate redundant data entry, and to <u>replace an outdated Lotus Notes database with a more efficient and robust system.</u>
Reduce the number of reports; streamline data entry and extraction into one or a few universally accepted formats; reduce the amount of time spent on duplicate data-entry; reduce staff resources needed to respond to fire drills; and increase <u>confidence in data entered into the system.</u>
States must adopt new RCRA rules and have those adoptions authorized by EPA
Migrating over 200,000 files from Q share to either records retention, SharePoint or personal files to reduce costly storage on the Q share.
Annual Facility Inventory Process. This project reduced time from 8 months to less than a week by utilizing information available from the IT department. <u>Event held.</u>
Streamlining and standardization of co sponsorship agreement
NPDES Draft Permit Process. This Value Stream Mapping Event resulted in the addition of a suite of SOPs and Guidance documents to the Regional NPDES Intranet site to assist permit writers during permit development, a streamlined process for downloading and creating tables for monitoring data using a national database, and identified the need to create an <u>electronic routing procedure for draft permit review.</u>
NPDES Draft Permit Routing Process. This Rapid Planning Event (an offshoot of the NPDES VSM Event) resulted in a new <u>electronic review and routing procedure for NPDES permits designed to increase efficiency of draft permit reviews.</u>
RCRA NOV Inspection Reporting Process. Accomplishments will include reducing the number of steps for a routine NOV from 37 to 22; reducing process time for a routine NOV from 10 days to 7 days; automating the document writing process; acquiring tablets for inspectors to use in the field; developing a field NOV; and developing standard formats for inspection <u>reports and NOVs. Event held.</u>
Regional Laboratory Small Purchase Process. This project Includes a visual inventory system for routine supplies, an electronic order form, and transfer of approval responsibility to the purchaser. Accomplishments include reducing steps <u>from 27 to 16; and reducing time from 12 days to 5 days. 90-day check-in.</u>
Replace Lotus Notes based Regional events calendar with something streamlined and easier to use
The SIP Process does not have a standard procedure. The steps to handling a SIP update or submission from the states can vary depending on who is handling it. This leads to confusion and lack of transparency at any point in the process. Managers and the senior SIP coordinator must conduct a great deal of follow up and reminders to make sure the SIPs are <u>on track to be reviewed completely in the required 18-month timeframe.</u>
TBA
Examine process improvements that can be implemented to award Divisional grant actions prior to the fourth quarter of the FY. <u>This project would evaluate the Divisional process for increased efficiency by 10%.</u>
Data generated by CWD, partners and grant recipients is individually stored after use and ultimately forgotten. CWD staff are unaware that the data exists and waste time and money to recreate or make decisions without using the existing data. The team will develop a process to ensure that the division enters data into secure searchable formats and database, that <u>SOPs are developed for all data and that data from 2015 to 2016 will be placed into the appropriate secure searchable</u>
This project will address controlled correspondence that requires the Regional Administrator's signature. The team will look streamline the process to prepare correspondence to see how the use of the new collaboration tools available at EPA <u>can facilitate and bring efficiencies in reviewing and finalizing documents.</u>

<p>The project scope of this Correspondence Management Process focuses on the areas in which the R2 Office of Policy and Management controls and oversees: the initial phase of this project is centered around transference (implementing the <u>applicable recommendations from the Correspondence Management Process Improvement Toolkit</u>).</p> <p>Current DESA Lab COC & sample login process is entirely manual. The Lean Six Sigma project will address and accomplish the following: • Assess all aspects of the DESA LAB COC & sample login process; • Improve it by making the laboratory <u>sample login procedure a more efficient and streamlined process; and</u> • <u>Automate COC & sample login process as much as</u> Improve internal eDiscovery process for determining requirements, performing searches and enhancing communicating <u>between the Information Resources Management Branch and its customers.</u></p> <p>To develop a process (SOP) for the submittal of documents and the management of Clean Water and Drinking Water grants. This will include ranking, application, NEPA preparation documents and the overall management throughout the life of the grants. This Lean project will also develop tracking project progress throughout the life of the grant. This will <u>allow overall grant process improvement and completion of well needed projects in the territory.</u></p> <p>There is big gap in the timeline from when CWA inspections are performed and enforcement actions (Administrative Compliance Order and/or Administrative Penalty Order) are issued by CEPD. EPA's timeliness guidelines establish that inspections reports should be completed between 30 to 45 days from the date of the inspection.</p> <p>Examine NPDES Compliance Sampling Inspection report generation process to identify opportunities for improvement in timeliness and overall content.</p> <p>The current communication process between ORA and Regional staff could be more efficient and effective. In particular, the process to schedule meetings with the RA/DRA offers opportunity for great improvement both in terms of time and <u>effort to schedule the meeting and the quality of briefing materials and the meeting itself.</u></p> <p>This project focused on the process for maintaining inventory and purchase of regional laboratory and field small, shared use supplies. Supplies used among lab and field employees were running out before new orders were placed, which caused down time in daily activities. This project set up the use of a visual inventory system for routine supplies, thresholds to <u>trigger a purchase request with guidelines for how much to order, an electronic order form, and an assigned supply</u></p> <p>Working between our finance office and public affairs office, there is a lot of confusion and back and forth. Learning the <u>process will define roles and track progress.</u></p> <p>The current process for formal enforcement actions governed by CFR Part 22 often exceeds the RCRA Hazardous Waste Civil Enforcement Response Policy (ERP) timeframes for bringing Significant Non-Compliers (SNCs) into compliance by a <u>factor of two or more.</u></p> <p>Once the agreement closes, LVFC sends a notification requesting the final FFR. The recipient has 90 days to submit the required reports and draw remaining available balances. EPA has the responsibility of reviewing reports and entering the information into the appropriate databases within 30 days and then closing the agreement. Once all reports from the recipient and forms from the Project Officer is received, the Grants Specialist provides the complete grant file to the Grant Assistant to close the file in IGMS and to send the closeout letter. When the recipient has not submitted the required reports, at 90 days EPA is supposed to initiate the enforcement process. An "A" Letter is sent on the 91st day requesting overdue reports. A "B" Letter is issued at 120 days requesting overdue reports and to notify the recipient the next step for enforcement will be a termination. If the reports remain outstanding at 150 days, a "C" Letter is issued which notifies the recipient of the intent to terminate the agreement for failure to comply with the terms and conditions of the award and provides directions for dispute rights and to submit the outstanding documents. After the period stated in the "C" Letter the recipient either submits their outstanding reports and the grant can be closed or the agreement is terminated and EPA</p> <p>VI Stormwater Enforcement: This project will examine EPA's goal of providing thorough and timely enforcement for all Stormwater violations in the Territory. EPA's current process did not have a consistent implementable tracking system of how decisions were made for referral of enforcement cases to the Virgin Islands Government. The Current process comprises of 52 steps with a Process Time (PT) of 81 working days and the Lead Time (LT) of 280 working days. The projected future state has a rough estimate of 14 working days Process Time (PT) and 42 working days Lead Time (LT). This equates to a 85% Reduction in the process 83% Reduction in Touch Time (resources). All identified actions on the <u>implementation plan is projected to be completed by mid Summer.</u></p> <p>Volunteer Intern On/Off-Boarding Process: This project will examine the internal on/off-boarding procedures of Region 2 in <u>order to make more efficient the process of coming into and leaving the EPA Regional Office.</u></p> <p>Caribbean Environmental Protection Division, Division of Enforcement and Compliance Assistance and Public Affairs</p>
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Division all submitted similar lean projects proposals based on a shared need to optimize how the Region receives and handles tips and complaints. Currently, tips and complaints are received by the Region in various ways and are tracked in
The Five Year Review process involves many people with many rounds of editing. The intent is to have a standard workflow, a clear picture of who is editing, and a single working draft. This will help the team meet planned due dates to the fullest extent.
Develop a streamlined/electronic process where employees can apply and annually re-certify for Telework.
The purpose of this project is to review the current Region 3 Employee Exit Process. This project is being conducted in multiple phases. The goal of this first phase is to establish a baseline and implement a Employee Exit Signout Event to assist in processing separation of a large group of employees due to the VERA/VSIP.
The FedFacs/ORC Docket Meeting and Tracking System for Superfund Site commitments were streamlined reducing meeting time by and creating a central shared electronic tracking system
Judicial Consent Decree tracking system development and implementation.
The purpose of this project is to review the administrative duties related to managing the ESAT contract. This project is being conducted in multiple phases. The goal of this first phase is to eliminate duplicate steps and reduce the amount of paperwork generated. High-level points about key results / benefits of the event (for example): • Reduced the number and size of documents to be copied and filed Eliminated redundant files
The NPDES administrative order on consent (AOC) concurrence process was addressed via a Rapid Organization Kaizen event. The team transferred large parts of the NPDES SCAFO concurrence lean project to this process, and many of the gains will be the same: proficiency gains, clarified responsibilities, time to focus on data quality
This project standardized the process for concurring on Class II NPDES SCAFO actions from the time the respondent signed the action to the time the action is entered into ICIS
To document the RA event planning and improve the process, clarify roles and responsibilities through event execution.
TBA
Region 3's State Implementation Plan (SIP) Project Officers draft hundreds of rulemaking documents every year which require detailed review through a hard copy concurrence chain. The lean event resulted in fewer steps, standardization and an electronic SharePoint new concurrence process that also reduces lead time and paper.
Region 3 Analytic Support Process The Analytical Support process begins when the Superfund Remedial Program forecasts a field sampling event and ends when a laboratory is assigned to analyze the samples. The process also includes the Analytical Request Form filled out by the Remedial Project Manager, a three tier decision tree managed by laboratory staff to determine if the samples will be analyzed in Region 3's laboratory or sent to an outside laboratory, which requires additional steps from the contract officer to procure outside laboratories
"Region 3 Analytic Support Process for the Superfund Remedial Program field sampling and laboratory analysis of samples. The process participants included RPMs, Contract Officer and laboratory staff. Analytical Request Form automated. Developed standard work for procuring laboratory assignments?. Reduced process steps from 32 to 25?. Clarified roles & responsibilities. Designed a new process that will take 23% less time?."
Region 3 Clean Water Act Section 404 Aquatic Resources Regulatory Permit Review Process. This project will provide 35% fewer steps, 18% fewer handoffs, up to 72% less review time. Accomplishments include new opportunities for staff learning and management feedback. 120-day check-in.
Improved enforcement cases tracking and workload management.
FIFRA Case Conclusion Process
The process by which OPM tracks the planning, commitment, and obligation of funding requirements for Regional Support
TBA
"Onboarding logistics for new hires are not executed in a coordinated manner. This process was improved with a mini-lean event and SOP revised resulting in meeting target condition for 100% of people on-boarded on Dec. 2014

Improve the process for planning and execution of regional support funds, from forecasting needs, approval, funding, contracting and obligation by creation of a standardized, synchronized process and associated reports.
Improved tracking and performance of SRF review process.
The OPM Immediate Office of the Director requires monthly submittal of items for a divisional Deliverables Report from all work units within the Division. Each work unit documents the status of all significant ongoing activities that would be of interest or concern at the Division Director and Deputy level, with due dates for each. The Deliverables Report provides a tracking mechanism for the employee, supervisor, Division Director and Deputy.
The Technical Systems Audits (TSAs) process focuses primarily on qualitative on-site project evaluations of research or measurement programs starting with preparatory file review/checklist development and concluding with a final report.
Streamlined process/procedures, and shared with Property Officers (FY 2015 lowest Losses).
For this event, unliquidated obligations (ULOs) will be evaluated for a process improvement outcome for regional accounts for contracts/simplified acquisitions/purchase orders, grants/cooperative agreements, interagency agreements, training, Working Capital Fund, GSA Reimbursable Work Authorizations (RWAS), Purchase Card/Fleet Card, Other Federal Orders: print requests, security clearances, federal register requests, and Travel (to include Permanent Change of Station (PCS) orders (Standard Operating Procedures: Deobligating Unliquidated Obligations, 2520-03-P2). The Agency's ULO process refers to accounts having no activity within 180 days after the end of the period of performance (Draft EPA Funds Control Manual, pg 7-50). Provide awareness of ULOs and their regional impact; define what causes acquisition related ULOs; identify roles and responsibilities to manage ULOs; identify process(es) to address ULOs for utilization or for de-obligating. Policies, guidance and procedures that affect ULOs include: 2015 DRAFT EPA Funds Control Manual (out for OMB approval); Responsibilities for Reviewing Unliquidated Obligations (2520-03-P1) and Attachments A, B and C respectively, Grants Policy Issuance (GPI) 11-01 – Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements, Interagency Agreement Policy Issuance (IPI) 11-01, Managing Unliquidated Obligations and Ensuring Progress under EPA Interagency Agreements and Contracts Policy Issuance (CPI) 11-01: Managing Unliquidated Obligations and RCRA Enforcement and Permitting Assistance (REPA) Contract Task Order Award Process.
The current process for nominating individuals for a regional honor award includes manual entry and re-typing of names/citations throughout the nomination and review process. Errors and omissions repeatedly occur in the announcement of these awards. Problems to address in the project – awards form is not user friendly and creation of an electronic or hard copy binder are labor and cost intensive. The project and team will review the process from when the call letter is received from headquarters to when the final regional selections are submitted to headquarters.
The processing of regulatory and permitting actions including the review process by the Office of Regional Counsel
All computers automatically powered down at end of each day.
The Lean event addressed CSEB Risk Mgt Program Enforcement process to reduce process time (Lead Time).
Reviewed/consolidated (free) Meet Me & Reservationless Plus (R+) conference lines; terminated excess/underutilized R+ lines. Reduced R+ cost from \$162K (FY 2011) to \$85,700 (FY 2014)
Region 4 Continuing Environmental Programs Grants Award Process. This project will reduce current process time and meet EPA standard of 90 days for Part 35 Grants. Six-month check-in.
121 of 305 desktop printers in the region eliminated. Purchase of toner and other supplies discontinued.
Large Procurement Process Review. Reduced the Regional Acquisition Program processing time for large procurements (Competitive Procurements greater than \$150,000) to adhere to Federal Acquisition Regulation (FAR), Contracts Management Manual (CMM), and EPA guidance.
Consolidated labor and space for regional library and law library.
After detailed needs-assessment, reduced enrollment by 129 (37%) from 350 to 221 employees.

Goal: reduce NPDES administrative enforcement cases processing time by several months. Project completed 1/28/2016 and progressing with management/stakeholders presentations (final presentation with R4 Executive Leadership Team – TBD).
The number of days it takes to process an inquiry that comes into the OEJS.
Reduced contractor labor cost for Office Supplies by 50%; number of items carried reduced from 242 to est. 25; eliminated excess inventory; two-thirds of space made available for other purposes; empowered divisions to order division-specific items themselves.
The project will evaluate the On-Boarding process to identify any bottleneck(s) to ensure employees are on-boarded efficiently and timely.
Reduced HVAC by 1 hour (30 minutes in morning and 30 minutes in afternoon) to reduce overall utility costs.
Personal Property Management Acquisition and Delivery Process. Expected accomplishments included reducing acquisition and delivery time of property from 20 days or more to one to five days; and is reducing loss with more accountability in the property process. Event held.
Replaced many desktop printers, shared copiers, fax machines with shared multifunction devices (MFDs) that provide print, copy, fax and scanning in one device--increased capacity and functionality.
This project uses the tools and techniques developed in the RCRA FIRST Lean process for investigation and remedy selection, leading to remediation of hazardous wastes at this active manufacturing facility.
Identified significant contractor work/labor that was not being accounted for in contractor reports (special projects). Labor need was previously underestimated.
Based on utilization analysis, returned 9 underutilized GOVs without replacement. Also implemented new/efficient fleet mgmt. system (VARS), and consolidated nearly all regional vehicles into a single pool.
Right-sized space, reducing by 2,392 sq. ft.
Saved money (\$230,000/year) by releasing 9,578 sq. ft. of space back to the General Services Administration (basement records storage, 16th floor, 14 GOV parking spaces)
Consolidated from 5 mechanisms to 1 and customized benefit to each employee's specific work schedule. Interagency agreement for GoCard
The R4 Tribal Consultation Tracking and Reporting Improvements Team will evaluate available metrics, existing reporting methodologies, and functionality of the TCOTS database to identify efficiencies in managing regional consultation
Region 4 Office of Civil Rights conducted several events with 2 schools via webinar. Enabled greater EPA employee participation, and saved travel costs.
Updated DSL lines to uVerse; cancelled unused DSL lines.
Streamline, simplify, and automate electronically where possible the process for the creation, review, and mailing of EPCRA/CERCLA § 103 information requests, while assuring an accurate, high-quality, legally-sufficient work product. The goals include reducing process time from an average of 40 days to 14 days and reducing the amount of paper used in this process by at least 50%.
The goal is to measure customer satisfaction, accuracy, and time, money, paper and space saved by transitioning paper grant files to electronic files.
RCRA Facility Investigation Workplan review and approval. CAF Tool.
The LEAN process uncovered time-saving measures for the EIS review process and increased the satisfaction of NEPA reviewers and associate reviewers.
The goal of this project is to post content more consistently, reduce the amount of time to post content, and streamline the process to post content.
The Environmental Science and Assistance Team (ESAT) contracts are multimillion dollar vehicles supplying Superfund with analytical and data validation services in each of the ten EPA Regions. Regional ESATs are "tasked" via Technical Director Forms (TDFs) approved by the Contracting Officer's Representatives (TOCOR)s. In Region 5, to date, TDFs are initiated, approved, and routed by email.

Standardize the nomination process for Regional Honor Awards. Optimize the format for announcing Region 5 Honor Award nominees and final selections. Reduce the amount of time it takes to receive award products. Ensure efficiency and <u>thoroughness in the publicized listing of award final selections.</u>
The project's goal is to streamline supply purchasing and adopt other Region's best practices where applicable.
PROCESS: The process being addressed: archiving EPA records to the Federal Records Center (FRC). DESCRIPTION: Project will reduce wasting time, steps in the approval process and cost to move boxes, which will free employees to work on <u>higher priority work and reduce the amount of space needed to store records ready to be archived.</u>
This Lean project will evaluate the existing Citizen Complaints (CC) process in the Water Division (WD) and establish a new process that includes utilizing a Region 5 (R5)-wide CC database.
Air Enforcement/Office of Regional Council Process. The team sought to expedite CAA enforcement from the current average of 512 days to 180 days. It addressed the long lead time, variations between ORC managers on whether to start negotiations prior to receiving a Department of Justice (DOJ) waiver for administrative settlement, the time from post- <u>Notice Of Variation (NOV) conference to submitting a waiver request to DOJ and information request loopbacks from</u> Air and Radiation Division Process. The team sought to reduce the time it took to write inspection reports.
Employee Exit Process. This project provided expedited 3110-1 form signing by asking all signers to assemble in one room for the convenience of 41 exiting and retiring employees. Event held. Event created new internal exit check out sheet <u>which is more inclusive of accountability and increased customer user efficiency.</u>
Review and improve current work flow of the Section Review Application Process and the Section Review Enforcement Process for the region's lead-based paint renovation training program and re-accreditation process (R-TAP). Reduce the amount of time it takes to accredit/re-accredit a paint renovation, repair and painting (RRP) training provider; optimize the program and enforcement project file(s); ensure efficiency and thoroughness; increase by 50%, by the end of FY 15, the <u>number of formal compliance actions taken.</u>
Reduce the amount of time it takes EPA to sign, file, and serve a CAFO after it is signed by the respondent. Optimize the routing process, including decreasing the number of steps in the filing process, eliminating unnecessary or duplicative reviewers, and reducing the total walk and wait time. Ensure efficiency and thoroughness in the CAFO sign-off process, including the elimination of redundant steps, improvement of communication between all staff involved, and insertion of <u>checks in the process to set expected reviewer deadlines and ensure accuracy and completeness.</u>
Reduce total lead (delivery) time; reduce EPA and WDNR staff workload; simplify the PPA renewal process; and improve customer satisfaction.
Eliminating the transmittal memorandum from consent agreement and final order (CAFO) approval packages eliminated nonessential documents and substantially reduced review times.
The Region 6 Air Enforcement Branch receives an excessive volume of paper mail, resulting in unacceptable backlog for <u>mail processing, coding and filing for distribution to staff or archiving to the file room.</u>
This project will integrate the EPCRA program into the Enforcement Division's inspection and normalization procedures.
The is project aimed to reduce the number of FOIA responses that are late.
This project aims to reduce the time it takes to complete hazardous waste combustion MACT reviews and approvals.
The Houston Laboratory used the NEIC equipment acquisition process and used elements of that project to increase it's lab equipment acquisition process. This transference project was one of the 10 projects selected by the Lean Action Board as
Region 6 completed a project to improve the quality and timeliness of inspection reports, ensure consistency of reporting information across enforcement programs, and share these reports with the public on an agency website. The goal of the project was to post the newly-optimized reports to the web within 60 days of the inspection, much faster than the average <u>amount of time it took to complete the reports, resulting in more expedient enforcement.</u>
To improve the municipal storm water system audit program by reducing time and costs.

Examine all aspects of the current NMED UST A/B Operator Training Tracking process flow and restructure, as necessary, to <u>make a more efficient and streamlined process.</u>
This project will streamline the NPDES permit review process.
This project will identify a more efficient way of meeting EPA's obligations by streamlining the National Pretreatment Program's <u>audit/inspection process.</u>
The project will reduce the number of steps and time it takes for state inspectors to receive their FIFRA inspection <u>credentials.</u>
This project aimed to reduce the lead time for filing a pesticides enforcement action
This project will examine Region 6's current practices of providing information about our actions and explore more effective and cost efficient means of communicating significant actions to our customers, as well as hear from them about <u>the effectiveness of our communication with them.</u>
The Lean objective is to streamline the 6EN QAPP template to reduce errors that could hinder enforcement and reduce <u>product development time.</u>
The project aimed to streamline completion of GHG permits in Texas during period before state delegation of program.
This project will streamline the process for reviewing and approving corrective action plans for RCRA remediation.
This project identified improvements to increase efficiency in RCRA enforcement case management.
This project aimed to streamline the RCRA project procurement process and reduce the amount of time from initiation to <u>contract award</u>
Lowering the overall cost of non-local travel by using tools and tips recommended by the team.
The problem identified was the backlog of SPCC inspection reports that had not been finalized.
The Region 6 air program evaluated the SIP review and approval process to incorporate lessons learned from R7 and R10.
The goal of this project was to increase the efficiency of PRP searches and negotiations, and use of technology tools to <u>increase communication and reporting.</u>
TCEQ and EPA produced changes to TCEQ's UST Inspection program to make the process more efficient.
Shorten the approval time for tribal regulatory action applications.
The project sought to streamline the process for reviewing and approving the backlog of UIC permit applications
This project yielded ideas for improvements to reduce or eliminate transactional costs.
4 State-EPA Region 7 Wastewater Permitting Review – Kaizen Event - The objective of the week-long event was to improve the effectiveness and efficiency with which all parties implement the NPDES program, and to learn how best to work together and resolve issues quickly. The event resulted in redesigned processes that clarified how to better address critical <u>technical issues, plan and conduct inspections, and collaborate between the agencies.</u>
4 State-EPA Region 7 Clean Air Act State Implementation Plan – Kaizen Event – The goal of this event was to cut waste and improve the speed and effectiveness of the Clean Air Act State Implementation Plan (SIP) process in the region. Prior to the event, it took as much as an estimated 7.4 years to complete the process in Region 7. The new process could take as little <u>as 3.2 years (56% less).</u>
4 State-EPA Region 7 Water Quality Standards Review – Kaizen Event. The objective of the week-long event was to improve communication and understanding between States, EPA Region 7 and EPA Headquarters on the process to develop and revise water quality standards. Prior to the event, the water quality standards submittal, review and approval process was time- consuming, unpredictable, and frustrating for all parties. The event resulted in a redesigned process with clearer understanding among all parties and a 51% reduction in the number of steps in EPA's approval process (from 53 to 26), <u>yielding significant time savings for all agencies.</u>

AWMD/APCO is tasked with reviewing and providing comments on Title V and PSD Air Permits developed by the States; approximately 100 Title V and 20 PSD permits are reviewed each year which are completed during the 30-day (Title V) and 45-day (PSD) comment periods. A general process exists for completing these reviews, along with various tools (AirWeb) to help with tracking status/progress; however there is no "set" schedule of milestones guiding the process.
The Brownfields program has a significant volume of files and reference material that needs to be catalogued in a consistent manner so that staff are quickly able to locate information.
Chemical Risk Enforcement Branch CBI Process: Confidential Business Information (CBI) is collected in the course of enforcement matters. This information can be vital to developing a case. We are legally required to protect CBI. Technology has changed from when the initial CBI procedures were drafted. The goal of this project is to create an updated, streamlined, workable, and legally defensible CBI process that accounts for technology advances.
This project's goal was to develop a documented process that allows CWA 106 Workplan negotiations to be completed within the region- and between the region and its state partners- in a consistent and efficient manner.
All four states in Region 7 are required to submit annual reports to show the states are implementing drinking water capacity development and an operator certification program to receive their full DWSRF capitalization grant allotment. The reports come in at various times of the year but primarily 2 state capacity development reports at the end of the previous fiscal year, 2 state capacity development reports at the end of the calendar year, one state operator certification report at the end of March, and three state operator certification reports by August 15, which must be reviewed by September 30. In addition, there is a triennial report to the governor from each state which must also be reviewed for the capacity development program and discussed with the states. After the review of the capacity development program, data must be Technical guidance documents and policies are located on numerous websites and staff have either printed out or saved copies to their laptops. If staff need to access one of these documents, they have to search for it on their laptop or the
Develop a written separation process for the Region to accompany the re-vamped separation checklist (2014) and incorporates: 1) recent changes in the SF-52 process for separation actions (i.e. FPPS) and 2) technological advances within
R7 employee/services data is currently collected/updated on differing time schedules through various processes. These processes require the time of many staff and supervisors to consolidate information for end products. Much of the information is duplicative and exists in multiple systems and formats.
This is a follow-on project from the branch's GWL development. They wanted to develop a VSM and process map of the process to bring visibility and understanding.
To streamline the grant filing process for Region 7's Watershed Planning and Implementation Branch. Enhance grant file management practices, make files more accessible, improve ability to meet records requirements and FOIAs, and make the process more environmentally friendly by using less paper.
HVMT Survey and Disposal Forms: Develop a list of questions that satisfy RCRA requirements and obtain customer satisfaction results associated with their sample analysis experience. Develop a disposal form that is easier to use and generates a higher use rate. Determine a method and process for electronic sending and submission of the forms (instead
Identify the specific details needed by the laboratory and the customer related to sample analysis planning. Develop a process map with details. Evaluate if improvements can be made.
This project developed a logic model for the Leadership Development Program that is being stood up in Region 7. It also provided an opportunity for the development team to have a discussion about what the LDP will look like.
Many of the tasks assigned by Sr. management get lost in general course of business; often difficult to ascertain basic status or task closure. Automated tracking system allows for easy assignment, status checks, and follow-up as needed.
To develop a process that allows first line supervisors the ability to incorporate their perspective into Management Official positions- prior to negotiation with the unions - on issues that may have broad, Region-wide implications.
This will be a kick-off effort to help the NPS team identify the key goals, objectives, activities, outcomes, outputs, etc. associated with the program. This logic model will help all team members focus efforts on key programmatic components and will provide a framework for program understanding in times of staff turnover.
Kaizen event for Authority of Air Delegations for NSPS, NESHAP and MACT- The project focuses on EPA Region 7's internal processes leading to the publication of the delegation notice. During the event, we will discuss the programmatic purposes and historical context of the delegation program, document the current process and outline the ideal process, then develop an S.O.P. We will discuss a method for training relevant personnel on how the submittals are processed, as well as lead to better coordination with states.

The STC stock room holds office supplies, laboratory supplies, safety supplies, common field supplies, and shipping supplies that are necessary to STC staff for the completion of their jobs. The STC also has field equipment that is stored around the lab, <u>some of which needs to be stored in the stock room.</u>
This project aimed to increase understanding of comp time and overtime requirements by managers and staff, created efficiencies and uniformity in answering questions, and implemented a SharePoint based approach to routing and <u>approving requests thereby reducing vulnerabilities and administrative lead time.</u>
This project improved the internal process used to review and comment on the progress reports associated with the PPGs <u>Region 7 has with the State Environmental Agencies.</u>
Equipment for conducting analytical analyses is needed from time-to-time in order to develop new capabilities and/or replace outdated equipment. The process for obtaining this equipment requires both ENST staff who establish the functional and procurement timeline requirements, and PLMG/AMBR who executes the acquisition process. The current <u>process does not tend to favor the close communication needed between the two groups.</u>
In consultation with ECO immediate office staff, we designed a SharePoint workflow to track concurrence with the <u>quarterly enforcement targeting list.</u>
The current compliance inspection tracking process is not well understood, consistent, or efficient because, in part, it is forced to work within the framework of an antiquated INSPECTrax database. Creating a standard and efficient process will eliminate these issues and identify a complete understanding of changes needed to the INSPECTrax database so that it can <u>be modified to meet the process needs.</u>
Several different types of executive correspondence require Regional Administrator (RA) or Deputy Regional Administrator (DRA) signature. These may include letters/notices resulting from programs that cannot be delegated to subordinate units within the Region, responses to inquiries from specific individuals, and correspondence with members of the media. This <u>correspondence is important for meeting regulatory requirements and ensuring a consistent "voice" to the regulated</u>
In 2010, The GOV fleet management processes were selected for the first Region 7 Six Sigma study due to known inefficiencies with the current process which seemed to warrant a closer review. The study reviewed and analyzed the <u>usage and costs associated with the Region 7 government vehicle fleet.</u>
Lab equipment is managed on a different lifecycle than standard IT products. This results in compatibility issues between <u>Lab equipment software and standard IT updates. This project seeks to resolve these issues by defining a test environment</u>
Develop a new or improved enforcement-type concurrence process to more efficiently and effectively handle the workload to meet internal and external customers' needs. The team is looking at ways to improve the process, and is in the process <u>of developing a solution through SharePoint.</u>
The primary purpose of this project is to review, validate, and where appropriate improve on the process for properly disposing of laboratory samples (and all associated wastes) once they have been cleared. A secondary purpose is to assess how the process intersects with the LIMS database, and the Access database developed in-house to aid with sample disposal, to develop a requirements for a future iteration of the software that would allow the sample disposal process to <u>work more efficiently and effectively.</u>
The process for identifying and addressing travel card delinquencies is not widely understood by managers. Managers don't always know there is an issue with an employee's travel card payments and there is often inconsistency in follow-up actions taken by managers when necessary. This project is looking at the process used once someone has been identified <u>as being delinquent on their travel card payments.</u>
RCPP has been tasked with providing CPS with 2 entire shelving units in one of the AWMD storage rooms. Currently, the storage room is extremely cluttered, disorganized, and presents a number of potential safety hazards. There are large bulky items that restrict access to areas of the storage room. There is also overflow material that has made its way out of <u>the storage room into cubicles and additional shelving units and file cabinets in the main work area which could be used</u>
Program and legal staff have such high workload that it's hard to tell what to work on first. Too many cases have dropped off the radar and aged past enforceability. Clearly setting case priorities and managing status consistently will enable the team to focus on the important cases and track cases through to completion more effectively. Goal is to develop a simple visual chart showing the status and priority of all cases in the Branch. Clear communication on what is the most important <u>activities for Program and Legal RCBA Enforcement teams.</u>
CAA 112(R) Administrative Enforcement Actions. Process improvement across media for administrative enforcement actions (non-DoJ).

CAFO Inspection Reports Targeting and Coordination. Expected accomplishments will include identifying opportunities to use inspection resources; better use of technology and scientific data and tools; and improving communication internally and externally.
Clean Water Act Section 319 Grant Process Lean Kaizen Event - The team developed a new process that reduces the number of steps, handoffs, and the overall time to finalize grants enabling Region 7 to award 319 funds in a more effective and efficient manner through increased transparency and understanding. This new process will improve the timeliness and collaboration of the process within Region 7.
Concurrence Signature Process. Expected accomplishments will include improving routing procedures; examining signature requirements; and considering e- concurrence. Pilot in progress.
FOIA Process: The goal of this project was to analyze and develop an implementation plan to improve the process of responding to FOIA requests from receipt to delivery of final response.
Chemists must prove they are capable of performing each new method. To demonstrate this, each chemist analyzes four samples and all corresponding quality controls to generate a data package. This data package is peer and manager reviewed. Additional steps are performed on these Demonstrations of Capability (DOCs), both initial and continuing. The final step is to log the DOC into the Laboratory Information Management System (LIMS). The length of time between a manager's review of the DOC and when it is logged into LIMS can vary greatly. In the meantime, chemists need to analyze real samples and managers need to know who is current to make assignments, sometimes on an emergency basis. Historically, the length of time between a manager's review of the DOC and when it is logged into LIMS can be 6 weeks to 6 months. The team wanted to identify causes of the significant delays between completion of the DOC and logging it into LIMS.
The purpose of this project was to use Lean tools to identify a replacement container used in several laboratory processes.
Multi-Media Case Processing. Expected accomplishments will include reviewing regional policies and practices for multi-media processing of enforcement cases. Events held.
New Employee Onboarding: The goal of this project was to analyze and improve the efficiency of the onboarding process for new employees and ensure they receive essential tools, resources, and knowledge.
Regional Daily Digest. Expected accomplishments include improving the content of Region 7's internal News and Events Daily Digest by enhancing the process for division submissions.
Programmatic Training Identification: The goal of this project was to develop a single process, common across programs, that provides an inventory of EPA Region 7 staff training needs and allows for better planning, improved coordination across programs, less duplication of training, and more accurate budgeting.
SF-52 Internal Routing. Expected accomplishments include improving the efficiency of the routing process to ensure that only value added steps are included.
Spill Prevention, Control, and Countermeasure -- Lean Mini-Kaizen Event - The event's objective was to clarify the SPCC inspection process and to improve process efficiency by clarifying staff roles, identifying unnecessary process steps, eliminating redundant work, and streamlining the entire inspection, compliance, and enforcement process through the creation of standard operating procedures (SOPs).
Region 7 Superfund Daily Document Record Process. This project provided a revised document submittal form and instructions, and created new records management training.
The regional delegations maintenance process resides within SSFM and is critical to its COOP function, as well as the Region's ability to legally conduct its work. All of the reorganization packages in the past 5 years have failed to properly capture and address the need to update regional delegations; thus it appears as though the process for doing so is unknown and/or not functioning properly. This project will determine why these failures have occurred and how best to prevent them from happening again.
Process by which Regional Orders and Notices are updated, published, and catalogued.
RCRA Corrective Action CMS Process. Expected accomplishments will include reducing investigation process from 19.4 years to 5.1 years. New approach shifts critical decisions to the front of the corrective action process with new tools to reach key agreements at critical points in the corrective action process.
RCRA Facility Investigation Process

<p>This project focused on documenting the FOIA process within the Superfund Division and creating tools to assist SUPR employees in responding and processing FOIA requests. It was completed through a series of facilitated discussions and <u>working sessions with the employees/managers in Superfund that oversee and implement the FOIA process in the Division.</u></p> <p>This was a request from the Santee Sioux tribe to help their PPG workplan negotiations go more smoothly in the future. There has been a fair amount of staff turnover on both sides (tribe and R7) and the last round of negotiations were <u>somewhat frustrating for both.</u></p>
<p>Grantees submit "sites" for brownfield grant work funding. The status of the site needs to be confirmed against specific criteria before they are allowed to spend funds on clean-up & restoration. There is currently a backlog of sites awaiting determination, but this should be resolved soon. Typically the work is assigned to the Project Officer for the Grantee; <u>however, some many more sites than the PO can adequately process so a work-leveling process is needed.</u></p> <p>This event focused on the planning phase of site-specific contracts which are carried out by RPMs, Contracting Officers, and CNSL.</p>
<p>The current system of cataloging Superfund CBI documents makes it difficult to locate files due to inconsistencies in the cataloging and check-in/check-out processes. This project's goal is to create new cataloging and check-in/check-out systems that will be as effective, organized, and efficient as possible for the use of our customers while keeping Superfund <u>CBI documents controlled and secure.</u></p>
<p>Since the end of the "Registrar" system, Region 7 has not had an adequate system in place to track all staff training beyond what is tracked beyond at the programmatic or supervisory level (which may range from individual spreadsheets and databases, to hand written notes, to only that which the employee may keep). Region 7 spends significant resources on training (both dollars and hours) but largely has no system in place to account for this investment. In addition, tracking of <u>field staff training is a component of the OAFAP requirements</u></p> <p>This process looks at the Region 7 process for responding to atypical travel card usage. Atypical travel card usage is when <u>there is an travel card transaction that posts to the credit card outside of a authorized travel period.</u></p>
<p>Environmental covenants are required at contaminated RCRA facilities as part of a final remedy where clean up standards are less than unrestricted use (i.e. industrial use). Currently, the timeframe for development of these legal instruments are variable and, in some cases, excessive. The expected outcome of the project is to streamline the process and shorten the <u>timeframe for environmental covenant development.</u></p>
<p>This project improved the process of responding to Freedom of Information Act requests in the Water, Wetlands, and <u>Pesticide Division of EPA Region 7.</u></p>
<p>This project aims to address the processes that the WWPD/WENF state coordinators are responsible for completing. Includes CMS plans, CMS reports, PPG workplans, and PPG annual reports (reviewing and commenting). This project is needed to document the processes the state coordinators work on so that all tasks and due dates are on a <u>timeline/calendar. This will help ensure work products are submitted in a timely fashion.</u></p>
<p>The initiation, review and clearance of emergency health consultations (HCs, including Letter HCs and non-public facing consultation records) prepared in response to emergency and/or time-critical requests from other federal or state <u>agencies: CDC, Agency for Toxic Substance & Disease Registry (ATSDR) prepares these documents for EPA.</u></p>
<p>The pre-clearance review and clearance of public health documents prepared in response to requests from other federal or <u>state agencies or other petitioners; CDC, Agency for Toxic Substance & Disease Registry (ATSDR) prepares these documents.</u></p>
<p>Lean event included representatives from federal, state, and local government, as well as several customers (water utilities who request permits in this process) and NGO stakeholders. The overall goal of this project is to increase coordination and cooperation across federal, state, and local regulators, as well as non-governmental stakeholders, by designing and <u>implementing a more efficient process for the initiation of NEPA and scoping for water supply projects in Colorado.</u></p>
<p>The overall purpose of this project is to increase coordination & cooperation across federal, state, and local, as well as non-governmental stakeholders, by designing & implementing a more efficient process for the initiation of NEPA and scoping <u>for water supply project permitting. The outcomes of this value stream mapping event led to the three-day Kaizen event in</u></p>
<p>The R8 Drinking Water Unit receives substantial amounts of data submitted for compliance with the Safe Drinking Water Act (SDWA) from public water systems (PWSs) and labs in Wyoming and Tribal country. Data comes to EPA through <u>different routes and must be compiled and accurately entered into the SDWIS database and to a future electronic record</u></p>

<p>The goal of this project is to reduce the amount of time used to develop and approve enforcement documents (e.g. orders, warning letters, request letters, etc.) and to reduce the number of re-works by staff and managers involved in the concurrence process. Tools used include 1) standard, accepted templates for common NPDES enforcement documents and 2) a custom SharePoint approval workflow running off of custom list items. Use of templates for standard work is enabling the team to improve the rate of correct & accurate while the e-concurrence tool enables the team to achieve faster approvals of the documents. Furthermore, this particular e-concurrence tool improves accountability among all staff involved in developing and approving the document, as anyone from the program can see in SharePoint the status of a document in the routing pipeline. Documents no longer get lost in hard-copy routing, staff can review/edit and concur</p>
<p>The overall goal of this process improvement effort was to decrease the amount of time & re-work during procurement activities for the Region 8 Office of Communication & Public Information (OCPI).</p>
<p>Pesticides State Grant Funding Allocation Process - The overall goal of this project is to increase transparency, speed, and accuracy of the pesticide state grant funding allocation process in Region 8. The project team agreed on a metric of awarding all grants within 45 calendar days (approx. 30 business days) after both funds and grant applications are received into the region. Event held.</p>
<p>Property Management Process Improvement - The overall goal of this project is to revise the property management process to reduce errors in property tracking data and decrease the amount of missing property. Specifically: To improve the accuracy and completeness of tracking all property within and entering the system; gain team understanding of region-wide best practices and develop standard work practices; and increase awareness of existing property management policies. Event Held Project Champion: Bill Daniels</p>
<p>Regional Support Process Improvement - The goal of this project is to streamline the Regional Support (i.e. OARM, OEI funding to region) allocation and spending process, prior to the retirement of the Regional Support coordinator. The project team mapped the current state, prioritized solutions, and implemented two solutions: 1) simplifying the org code structure for allocating Regional Support funds and 2) revising the Regional guidance for how SEE fees can be spent within Regional Support. Project completed using traditional meeting format.</p>
<p>Region 8 Review of Sanitary Survey Document Handling Process for Wyoming Systems and Wyoming Tribal Systems. The goal of this project was to decrease the time in which the sanitary surveys are mailed out to system operators (from nine months to three months). This project allowed the team to identify unnecessary steps in the review process, yet maintain the integrity of the process. Improvements included requiring contractors to adhere to deadlines in providing survey Region 8 Tribal UST Grant Awards. This project will lead to awarding grants two to three months earlier by engaging tribes early in the process; encouraging grantee use of OMB MAX site; piloting 2-year awards; developing standard operating procedures; and creating document templates. Event held.</p>
<p>Appropriate utilization of Superfund Special Accounts to refining a processes to ensure accurate site charging to available and proper Special Accounts. Processes include activity level planning and execution for payroll, allowed within each site Consent Decree. This project has improvement actions with respect to internal coordination and centralization of shared</p>
<p>The Objective of this project was to reduce process variance in the UIC well permitting program for obtaining financial assurance (FA) instruments from the regulated community. The UIC well permitting process was analyzed by project participants through three mapping events that highlighted the variance and turnaround times in the FA process and how to streamline and standardize these steps. This mini-Kaizen event greatly improved the way the Agency communicates with the regulated community about FA regulations and how such instruments are reviewed and accented by the Agency.</p>
<p>The Director of the Information Management team in Region 8 wanted to develop a deeper understanding of the work her staff performs and improve the timeliness and accuracy of the reports being certified by this unit. The Lean process improvement facilitator conducted a series of events over a period of one year utilizing Value Stream Mapping, Gemba walking and development of a system of Visual Management Boards that track every aspect of work being performed by the Region 8 Information Management team. This effort has eliminated the need for weekly staff meetings as well as the one-on-one meetings the Director was conducting with each .Gemba walks and weekly standup meetings held at the Visual Management Board with the Director have greatly increased employee engagement. The timeliness and accuracy of the data being collected, certified and reported on behalf of Region 8's enforcement programs has never been better.</p>
<p>FOIA requests. •Ensure that all key records are available in electronic form in a central location. • Allow information to be seamlessly passed from PM to PM or from PM to Managers, assisting in succession planning. • Provide a process that</p>

Our project sought to reduce the time to hire from the current average of 240 days to closer to the OPM metric of 80 days.
Improves tracking and completion process in Agency Mandatory Trainings.
Analyze the current Region 9 travel request process using Concurr and aims to decrease process time, defects, and rework.
TBA
Our project improved the process of assembling accurate Superfund cost recovery packages.
Improve Cross-Division Coordination on Work Processes, Responsibilities and Decisions within the NPDES Permit Life Cycle.
The Region has historically used a decentralized approach to initiate and forward personnel action to HR. With the implementation of Federal Personnel Processing HR System (FPPS), there is a need to review this work process to improve accuracy and to gain efficiency especially if reduction of administrative overhead become necessary.
The Regional Support Account (RSA) planning process (AKA the budget formulation phase) is very complex and involves many participants. The uncertainty in the funding amounts and timing further convolute associated issues. Although adjustments have been attempted over the years, participants still feel the process is unwieldy, lacks a well-defined and transparent structure regarding the ideal time to kick off the process, confusion as to who is involved and their roles and responsibilities, and lack of a reliable and clear communication process including issue resolution.
Improve documentation, billing, disputes with SSC's
Reduce FOIA response times in order to improve employee quality of life and customer satisfaction.
Use of WebForms to initiate, approve, and track bank card purchases of laboratory supplies is cumbersome and frustrating. Contractor staff cannot access software, necessitating re-entry of information by EPA staff. End users cannot tell the status of their purchase request without physically tracking down individuals in the approval and purchasing chain. Purchase requests slip through the cracks and do not get ordered in a timely way. R1 Lab has developed, a SharePoint application
Streamlining the process and cut waste
Procurement is a business process used to purchase goods and services.
EPA Order CIO 2105.0 requires any project that involves collection of data have an approved QA plan before data collection may begin. This process can be perceived by project managers as holding up their work. A team from different programs will look at the QA plan review/approval process to recommend where and how it could be made more efficient.
Region 9 RCRA PCB Cleanup Program Review and Approval Process— Addressing complaints from State partners and Brownfield redevelopment agencies that the process is hindering redevelopment. Reduce the time it takes for EPA to issue a final approval under TSCA for a responsible party to cleanup PCB contamination.
DESCRIPTION: Clarify regional separation roles and responsibilities, update Lotus Notes-based separation checklists and prepare for elimination of Lotus Notes, reduce email reminders, and assure that all who separate meet the regional and position-specific separation requirements.
Region 10 reviewed the Employee Exit Process Toolkit and used elements to do just-in-time improvements to our employee exit process timed with the latest VERA/VSIP departures. Specifically, R10 implemented a one-stop "last day" check out process where all critical people gathered in one room with lap top computers at the same time. We also provided "read ahead" information to potentially departing employees so they clearly understood the expectations related to employee separation and offered one-on-one assistance in areas such as records management.
Kaizen Event to lean phase III of NPDES permitting process
Create a standard process for processing FOIAs in R10 and lean that process
CAA State Implementation Plan Process. This project focused on the SIP process in state and local agencies in Washington State, and had broader application to Region 10. Accomplishments included reducing SIP review time from 18.75 months to 12 months. Completed.

Region 10 Correspondence Management System Process. This project includes a standard letter template for all Regional controlled correspondence; better records management protocols; and streamlined process for correspondence review and signature. 60-day check-in. Completed.
NPDES Administrative Penalty Project
New Personnel Workstation Setup Process Lean Event Case Study - The objective of the event was to reduce the time required to complete the User Management Request (UMR) process for new employees and other new system users. The Lean team exceeded its original goal of reducing lead time by 50 percent, instead identifying process improvements that would result in a 74 percent reduction in lead time.
The regional process of traveling as an employee, starting with getting a trip authorized through getting a trip reimbursed.
(OEX/OCIR) Correspondence Process Lean Project – create greater efficiency and improve timeliness in the OEX and OCIR correspondence processes
(OP) EPA Performance Track Program Application Improvement – Value Stream Mapping Event
(OP) Leaning the EPA OP Review of Documents Published in the Federal Register. This project includes Standard Operating Procedures, improved communications on document requirements, and a digital signature program. Accomplishments include reducing days in OP from 3 days to 1 day. 30-day check-in.
TBA
Project included the process of pre-reviewing, reviewing, screening for potential enforcement concerns, approving, and auditing applications from industrial facilities to be certified as ENERGY STAR facilities for the previous year, as well as sending out final certificates.
(OAQPS) Audit Processes for the Performance Evaluation Program (PEP) for PM2.5 and Lead (Pb), and the National Performance Audit Program (NPAP) for gas measurements. This project is expected to reduce overall lead time by 75% or more from on-site field audits to entering results into the national Air Quality System (AQS) database. In-house program currently being built to support implementation.
A safety and/or facilities review must be completed anytime new equipment is brought into our lab/office building or any building modifications are made
The sample receiving process is taking longer than is expected as there are a number of repetitive and redundant steps that can be reduced to save time and increase efficiency. The laboratory is responsible, in the case of an environmental or homeland security incident, for analyzing samples for emergency response reasons. In the case of an incident, where a fast sample turn-around time is imperative, the sample log in process, as it stands now, could be a time drain in increasing the backlog. The sample disposal process is taking over 15 years to dispose of one sample, when 6 to 12 months is acceptable. Storage of samples, that should be disposed of, is both taking up space that is needed to be free for a new project and could lead to violating waste limits. The committee would like to establish a 90 instead of 180 day storage time followed by disposal within 45 days.
Motor Vehicle Emissions Simulator (MOVES) modeling system used to assist in rulemaking - project was to improve data submission process within MOVES process
(1) Updating the NEEDS database to reflect input from a number of sources. Input comes in both as part of the formal rulemaking process and outside of that process. (2) Sharing information about updates (e.g., status, plans) with
The National Air NATA is EPA's ongoing comprehensive evaluation of air toxics in the United States.
The project included a large number of steps from gathering data from states through EPA creating, revising, and finalizing the nonpoint portion of the NEI. The Lean process included state review of the draft inventory.
(OAP) Part 75 Continuous Emissions Monitoring (CEM) Petition Response Process
(OAQPS) E-Enterprise Air Emissions Data submission, review, and use

<p>(OPAR/IO) Document production in response to FOIAs and Congressional requests—OAR-wide. This project covers OAR, OEI, and OGC roles in developing document search requests, conducting document searches, reviewing results, and coordinating responses when they cover documents from more than one office. Solutions include standardizing forms and formats for document request and document delivery, providing training for crucial tools, and clarifying roles in some cases and redefining them in other cases to consolidate the number of people who participate in the process.</p> <p>(OTAQ) Technical/Engineering Hardship application process for non-road diesel equipment manufacturers participating in TPED. This project will reduce the application review process by 50% in overall lead time as well as reduce the number of incomplete applications by creating user-friendly tools and guidance documents for manufacturers. Began implementation.</p>
<p>OAR Congressional Correspondence Response Process Improvement. This project makes the process of finalizing responses to incoming letters faster and more efficient. Accomplishments so far include a shared understanding of the current process and identification of key process steps. Began implementation.</p> <p>OAR Federal Managers Financial Integrity Act (FMFIA) response process. This process focused on OAR's steps in the FMFIA response process and made changes for both this year's reporting in 2015 and future years. Team members from 3 OAR program offices and the IO redesigned the response process to make sure everyone knew what OCFO needed before the process began, and revised the document request forms to be understandable to all people who needed to use them.</p> <p>GHG Reporting Rule. This project covers the process EPA uses to prepare the electronic data collection software, collect the data, verify it, and publish it. The team recommended some changes to tools that would reduce the time or complexity of completing steps; aligning and streamlining work with contractors, and triage and "binning" steps to better target work on the source categories where it is necessary for that year.</p>
<p>The process of drafting, reviewing, and finalizing public speeches for the OAR AA and others in the IO.</p> <p>This project reduces overall lead time by 40% or more and makes the process more user-friendly for petitioners and EPA. Accomplishments include creating a Standard Operating Procedures Guide for petitioners.</p>
<p>Significant New Alternatives Program (SNAP) for ozone-depleting substances. Accomplishments include changes to how meetings with submitters are staffed, assigning a case manager for each submission, creating explicit steps to improve communication between staff and managers, and identifying training needs for new case managers. Began.</p> <p>Upstream Inventory Development Process</p>
<p>This project covers the process of recruiting shippers into the SmartWay program, helping them submit the first set of data, and their first full year as a partner in the program. The project ended when a shipper submits their second year of data.</p> <p>The Inventory team will use the LEAN process to assess areas to improve the greenhouse gas inventory compilation process, focusing specifically on the initial annual compilation of the first draft of the report in the fall when the first text and calculation files are exchanged.</p> <p>Improve scheduling process in order to reduce test voids (due to scheduling confusion and test packet ambiguities), redundant efforts, and staff frustration as well as increase customer satisfaction through improved responsiveness to dynamic situations (test changes, unscheduled repairs, retests, etc.).</p> <p>Manufacturers determine the need to submit defect and recall reports as defined in the regulations (40 CFR 85 and 1068).</p>
<p>Agency Reorganization Process. Expected accomplishments will include reduced stakeholder review timeline and processing of reorganization packages from 105 days to 65 days or less. Progress so far includes improved collaboration and communications between program office customers, process stakeholders, and senior management. On schedule.</p> <p>Streamline the tracking and closeout of contracts to improve compliance with required timeframes, improve customer service, and decrease unnecessary process requirements while conforming to the FAR.</p> <p>The membership package process for the agency's federal advisory committees.</p>
<p>The primary intent of the Agency's Grant Administrative Baseline and Unliquidated Obligation (BULO) Review Lean project was to combine independent but interrelated processes, streamline procedures and enhance electronic systems to increase efficiency; the ULO recommendations were carried out through a separate OCFO Lean sponsored event, however expected results from some of those recommendations, mainly reviewing only those ULOs that didn't have financial activity of more than 180 days or more, was projected to have an 80 – 90% reduction in the amount of ULO reviews needing to be completed by each Grant or Interagency Agreement Specialist; lastly, some of the Administrative Baseline recommendations such as excluding certain grant programs (e.g. the SRF program) from the review process are planned to</p>

Training Approval Process—Focus on SF182 creation, submission, and approval, including funding requirements, and training officer approval. <u>Work group members to include reps from Program Offices and Regions</u>
Agency On-Boarding/Off-Boarding Process - partnering with R2 and R9 to examine 4 processes (Onboarding, Move/Add/Change, Provisioning, De-provisioning/Off-Boarding)
Facility Task Order Development
EPA/RTP Graphics Design & Print Service. Expected accomplishments will include reducing time for graphics service from 15 days to 10 days by creating a standardized requirements collection process, and adding requirements process to project tracking information.
FACA Membership Selection Process - Streamlining and simplifying the process by which committee members are appointed to EPA Federal Advisory Committees will aid the Agency by achieving efficiencies and reducing the time it takes to appoint members.
Project will review OARM's current controlled correspondence process to clearly define the process, roles and responsibilities to enhance the inter-office/signature process in an effort to reduce unnecessary steps, decrease processing times, improve review and update/corrections processes, improve document tracking and manage documents through the signature process. <u>Intended Transference Project utilizing the Transference Tool Kit</u>
Improve the Grants and Fellowships Closeout Process to deobligate and allocate unexpended funds to other mission critical activities faster. <u>Multi-office Staff from OGD, OCFO (Las Vegas) and Regional Grants Management Offices.</u>
OARM – RTP HR Shared Service Center Position Description Distribution After a Position Description (PD) is assigned to an employee the Research Triangle Park (RTP) Human Resources Shared Service Center (SSC) sends the PD to the employee, supervisor, and HR liaison. <u>The office sends approximately 2,000 PDs annually.</u>
EPA RTP Separation Check-Out Process. Expected accomplishments will include an employee separation check-out list; verification sent to supervisor; and check-out list given to administrative contact by 1 pm on last day.
The project focuses on standardizing, streamlining and automating the agency's off-boarding program. OARM will be working with mission support partners (e.g., OARM, OCFO, OEI, OITA) to discuss the activities and requirements that need to be completed by employees before they depart the agency.
The Quick Requisition How to Guide will improve the quality of Requisition submitted to OAM.
Provide mechanism for customers to easily check the status of their submitted requisitions and/or advanced procurement plan
Improve the process/interaction between the Shared Service Centers/Executive Resources and the Personnel Security Branch for background investigations/security clearances.
Technical Evaluation Panels composed of subject matter experts are used to evaluate technical proposals during source selections to ensure a comprehensive evaluation of all offers.
This Lean project will streamline and standardize the ULO review/deobligation process for contracts and related processes to reduce workload, accelerate processing of funds, and reduce the level of expired funds lost.
Provide a more consistent IFFR Report distribution process.
National Superfund Cost Recovery Process. This project will standardize finance elements of cost recovery process across regions for certified cost documentation for oversight billing; and implement process efficiencies that provide cost savings. <u>Co-led with OCFO. Completed. Final report prepared.</u>
Corrective Action Tracking - The week-long event focused on clarifying the corrective action tracking process, developing a standard format for corrective action plans, clarifying the corrective action close-out process, and codifying all process steps into a standard operating procedure. The event dramatically improved efficiency by eliminating non-value added process steps, resulting in a more transparent process with increased data accessibility and improved customer
All Regions and NPMs collect and report performance data and analyze results in response to the Agency's end of year guidance. We have heard that this process is burdensome to the Agency and would benefit from streamlining. By mapping out and examining processes used by Regions and NPMs, we expect to identify opportunities to eliminate redundancies, achieve efficiencies, and reduce workload while at the same time maintaining accountability.
National Program Manager Guidance Process. This project established a concise format for NPM Guidances and centralized the process for identifying and including cross-cutting themes into the Guidances. Accomplishments included reducing the total number of pages in the five major Guidances by 32 percent; and created a standard template for Guidances.

Reimbursable Interagency Agreements Payment Process. This project saves \$648K if changes are adopted; shortens total process time; and responds to a financial control issue raised by the EPA IG office. Completed.
Software Applications Accountability Process—Declared an “agency level weakness” at the end of year management integrity meeting.
Unliquidated Obligations (ULO) Review. This project will standardize the ULO review and deobligation process for contracts and related processes to reduce workload, accelerate processing of funds, and reduce the level of expired funds lost.
Superfund State Contract (SSC) Accrual Process Lean Event Case Study - The event's objective was to create a consistent agency-wide approach for the SSC accrual process that would result in accurate data for the production of quarterly accruals for financial statement reporting. The team hoped to accomplish this objective by simplifying and standardizing the process, automating it where possible, and providing direction for EPA policy.
The redistribution of costs associated with EPA Superfund activities.
The input and verification of SAP (Simplified Acquisition Procurements and Miscellaneous Obligor Documents) obligations in the Agency's financial system to ensure funding availability for disbursements.
This project will address the lengthy time to complete Superfund redistributions that have been coded as problems.
The purpose of this Lean activity is to determine a process and tools that are efficient and reliable for measurable improvements from a common procedure.
Agency payment process from commitment to disbursement
The modernization of TSCA 12b process will implement electronic reporting for TSCA section 1
The goal of this project is to develop a blue print and path forward for the efficient Agency implementation of TSCA section 14(g) CBI reviews. The project seeks to improve reliability, effectiveness, efficiency, and transparency of the CBI review process from the time a submission is made until 30 days after final determination. The project will assess and work toward optimization of related information systems, organizational roles, and policies to eliminate current risks and problems as well as continuously improve the process over time.
(CCD) Chemical Data Reporting Process. Expected accomplishments will include eliminating unnecessary steps to increase efficiency and effectiveness of the CSR program. Process changes will be ready for the 2016 reporting cycle. Event held.
(OPP) Antimicrobial Testing Program Lean Event Case Study – Value Stream Mapping Event - The goals of the Lean event were to design a process that flows without interruption, to improve the quality of the process by reducing rework to cut lead time by 50 percent, and to improve employee satisfaction with the process.
(OPP) OPP Process Improvements (OPP Label Review, Approval, and Posting Process). OPP is improving business processes, including pesticide submission process and pesticide posting process. Expected accomplishments will align processes to reduce number of days to receive, review, and publish pesticide registration decisions. OPP will create an electronic workflow that will minimize paper documents, reduce manual tasks, and automate routine activities. Event in Fall 2014.
Federal Register Publication Process Improvement
Front-End Processing
Improved Headquarters/Lead Region Coordination and Communication—to increase efficiencies in budget processes, NPM Guidance decisions, other.
Learning the Creation, Maintenance, Storage, and Retrieval of an OPP “Jacket” (legally and functionally required documents to register pesticides)
Risk Assessment Groundwork
OCSP/ (CCD) TSCA Section 4 Test Rule Data Management Process. Expected outcome will include implementation of standard operating procedures to create greater efficiency and effectiveness in the receipt, review, and communication of test rule data via interactions within OPPT. Performance indicators have been developed and a baseline is being
The Office of Compliance conducted a 4-Day Kaizen event on April 2-6, 2018 to help its GLP inspectors to be more efficient in producing and distributing their inspection reports. In addition, the LEAN event will address filing of the inspection files using the latest technologies.
Improving OECA's Human Resources Operations- The goal of this project was to reduce the time it takes to fill a position by reducing the average number of days it takes to submit a complete recruitment package to the Cincinnati Shared Service Center for processing.

Improving the OECA/OCEFT/NEIC Criminal Report Process - NEIC's criminal report preparation process was evaluated to identify problem areas and define a path forward to implement efficiencies and improvements that will allow NEIC Project Managers to deliver defensible criminal reports which best meet the needs of NEIC's customers in a timely and efficient manner. The goal of this transference project is to evaluate three OECA information channels (FOIA requests, Zen Desk requests, and congressional correspondence) and make improvements in the processes to ensure that consistent information is
TBA
The current state of the AD process addressing responses to formal incoming requests on CAA applicability determination will be mapped ("as is" map) to identify constraints, bottlenecks, and improvement opportunities. The team will develop a future state ("to be") map to eliminate non-value added steps and develop an action plan for the improved process. Process steps involving receipt of the incoming request, determination of delegated program office to address request, the interactive process of analysis, research and consultation, process of drafting and finalizing the response letter, and issuing of the final letter to the requestor will be documented in this evaluation.
Streamlining OECA's Federal Enforcement & Compliance Data Reporting Process— Reduce the data required and make reporting more efficient.
Streamlining the EAS Procurement Process for OECA/OCEFT/NEIC Field and Laboratory Supplies. This project streamlined the EAS-based procurement process, standardized the process across NEIC branches, and resulted in a cohesive team approach to procurement for the Division. Results: reduced number of steps, eliminated major constraint steps, and minimized need for rework in several steps.
This project involves the process by which the Agency receives a formal applicability determination (AD) request from a delegated state or the regulated industry sector and ultimately issues a final AD response letter to the requestor. The current state of the AD process addressing responses to formal incoming requests on CAA applicability determination will
This project is in the early planning stages. Current process cannot sustain the projected increase in demand for FOIA requests. OEI-OEIP wants to improve the processing time of Agency-wide FOIA requests.
R5 and US EPA Office of Environmental Information (OEI) Information Technology (IT) Security Patch for Workstations: Critical Patches - Identify the current process(es) for critical patch management and identify key process for accountability and improvement to provide a measurement of cost (time and resources) of the current and projected process, provide a more efficient/effective process, provide a governance process for critical patch management, and provide an Agency policy and/or procedure for critical patch management.
Designed a process to transition to an enterprise tracking and reporting system that will enable real-time data collection. Two project co-leads will be identified and action items assigned by 08/05/15.
To improve OEI's overall response time to Controlled Correspondence inquiries through the implementation of the lessons learned from the Controlled Correspondence Process Improvement Toolkit.
This project is to lean and improve the provisioning processes across the agency so a new employee will have what they need to perform their job duties on Day 1 of arriving at their desk.
The Quality Staff at the EPA conducts regular assessments of the Agency's Program Offices and Regions for the purpose of determining compliance with the Agency's Quality Policy.
Regional Attorney Hiring Process streamline and update the regional attorney hiring process working with Region 7 and Establish a streamlined internal OITA On-boarding process for new employees.
Improve the internal records management process, engaging less frequently use lean tools (i.e., 5S)
Improving the Use of Evidence in OLEM's Planning & Budgeting Process (Planning and Performance Reporting Process). This project aligns planning, budget and performance reporting processes to allow program offices to share information and make evidence-based decisions. Event held.
Ensure that the new Office of Communications, Partnerships, and Analysis is run in an efficient and effective way, freeing up time for employees to focus on their priority work.
OLEM Communication Strategy Process— Streamline and standardize the processes for developing and carrying out OLEM communications strategies and responding to press inquiries

Process for Identifying and Documenting Applicable or Relevant and Appropriate Requirements (ARARs) for Superfund Remedial Actions—Improve and streamline the ARAR process across the Regions
e-Manifest Project Management Plans. This project creates an electronic system to replace the current paper system by <u>October 2015 (statutory deadline)</u> .
Process for indentifying and determining state applicable or relevant and appropriate requirements (ARARs) for Superfund remedial actions.
The process for EPA to approve state UST programs and regulations
Improve the receipt, delivery, assignment, funding, and tracking of gas cylinders by automating the tracking using a bar code system resulting in a more efficient process and less time consuming.
Improved management and maintenance of ORD/HQ's main supply closet by addressing issues of both the orderliness of the supply closet and management of the supplies (when to reorder, how much to reorder, etc). The team applied 5S principles to this project by first organizing the closet, and then creating an electronic inventory of supplies to <u>communicate what needed to be ordered to the purchase card holder</u> .
Better meeting customers' needs through improving assessment productivity while retaining high assessment quality of ORD's IRIS assessments that provides chemical toxicity information to EPA's programs and regions for their use risk <u>assessments to inform rulemaking and cleanup actions for public health</u> .
EPA Safety and Health Management System (SHMS)—Streamline and develop a single system for the Agency.
Science Matters Magazine Publication Process. This project simplified the review process and reduced time to publish the <u>magazine from 100 days to 50 days. Completed.</u>
Scientific and Technological Achievement Awards (STAA) Program—Streamline the application and review processes.
Decreasing errors, improving process times, and improving communications to customers in the purchase card process.
ORD Technical Qualifications Board (TQB)—Develop a single process to improve process times and reduce administrative burden.
Automate and streamline the ORISE recruitment and budget tracking process for a faster onboarding process and better <u>utilization of extramural funds</u> .
Improve the onboarding and deprovisioning (dProv) of ORD non-federal employees. Current process is inefficient and is a security vulnerability when the dProv process is not complete in a timely manner after a non-federal employee stops <u>working at EPA</u> .
Streamline and automate the approval process from original concept of an idea through the completion of a research <u>project to have more time for research and less time spent on paperwork</u> .
Make more efficient the internal processes that leads up to award of Science to Achieve Results (STAR) grants.
Streamline the process for reviewing and approving SGE candidates that come from the private sector into the Federal <u>Service for brief periods of need as experts and consultants based on their highly specialized knowledge and skills</u> .
This effort focused on state reporting of water quality assessment decisions under CWA Sections 303(d) and 305(b)
Streamline and strengthen coordination of CWA 304a criteria development and NPDES Permitting
Improve the turn around time of media request
Endangered Species Act Consultation with USFWS & NOAA Fisheries
The ordering of Mobile Devices was not uniform across program offices in OW, so we established a baseline process and <u>then streamlined it as a quick win</u> .
Water Quality Standards Approval/Disapproval Process. This project examines opportunities to improve efficiencies in decision process for state water quality standards; and partners with Region 10.
Improve the purchase card user authorization process to purchase supplies, training, travel, etc.

Primary Lean Method	Event Date
Kaizen event	12/1/2014
Value stream mapping event	1/1/2015
Value stream mapping event	2/1/2015
5S	11/21/2016
Traditional Project Team Meeting Format	
Value stream mapping event	
Value stream mapping event	6/1/2016
5S	10/17/2017
Kaizen event	1/1/2014
Mini-Lean	
Value stream mapping event	2/1/2014
Mini-Lean	4/1/2015
Kaizen event	4/1/2014
Kaizen event	12/1/2013
Mini-Lean	
Kaizen event	6/29/2017
Value stream mapping event	2/4/2016
Six Sigma	1/12/2017
Kaizen event	
Traditional Project Team Meeting Format	3/23/2017

Mini-Lean	9/13/2016
Kaizen event	
Traditional Project Team Meeting Format	
Kaizen event	
Value stream mapping event	
Value stream mapping event	3/15/2017
Kaizen event	6/8/2017
Kaizen event	2/8/2017
Kaizen event	5/4/2017
Value stream mapping event	3/1/2017
	3/21/2017
Kaizen event	4/1/2015
Kaizen event	2/1/2015
"Just do it"/Quick win	3/14/2017

Value stream mapping event	2/13/2017
Traditional Project Team Meeting Format	1/24/2017
"Just do it"/Quick win	
Mini-Lean	2/7/2017
"Just do it"/Quick win	
Traditional Project Team Meeting Format	1/30/2017
Kaizen event	
Kaizen event	
Mini-Lean	4/4/2016
Kaizen event	
Value stream mapping event	10/7/2015
Value stream mapping event	4/1/2015
Value stream mapping event	2/26/2015
Kaizen event	1/1/2014
"Just do it"/Quick win	
Value stream mapping event	4/3/2012
Kaizen event	
Mini-Lean	
Mini-Lean	

Value stream mapping event	3/30/2016
"Just do it"/Quick win	
Kaizen event	12/20/2017
Kaizen event	4/17/2017
Value stream mapping event	
Mini-Lean	2/1/2017
Kaizen event	10/3/2016
Six Sigma	7/20/2016
Kaizen event	
Other	
Kaizen event	
Other	
Other	4/1/2014
Other	
Traditional Project Team Meeting Format	7/1/2013
Other	
Other	

Kaizen event	1/25/2016
Kaizen event	
Other	
Kaizen event	
Other	
Six Sigma	3/1/2014
Other	
Other	12/3/2014
Other	
Other	
Other	
Other	
Other	
Kaizen event	
Other	
Other	
Kaizen event	
Other	
Other	
Kaizen event	
Kaizen event	
Kaizen event	

Value stream mapping event	7/1/2015
Mini-Lean	6/9/2017
Kaizen event	
Value stream mapping event	5/26/2017
	1/1/2014
Value stream mapping event	1/1/2015
Kaizen event	1/1/2014
Kaizen event	
Kaizen event	10/1/2014
Value stream mapping event	2/29/2016
"Just do it"/Quick win	
Value stream mapping event	
Traditional Project Team Meeting Format	6/21/2016
Value stream mapping event	
Value stream mapping event	
Other	
Traditional Project Team Meeting Format	
Value stream mapping event	

Value stream mapping event	
Other	
Kaizen event	
Value stream mapping event	
Value stream mapping event	
Value stream mapping event	3/21/2016
Traditional Project Team Meeting Format	
Value stream mapping event	
Other	
Kaizen event	
Value stream mapping event	
Traditional Project Team Meeting Format	8/3/2015
Traditional Project Team Meeting Format	
Value stream mapping event	
Traditional Project Team Meeting Format	
Value stream mapping event	7/1/2014
Traditional Project Team Meeting Format	2/27/2017
Kaizen event	
Kaizen event	
Kaizen event	8/1/2008
Kaizen event	1/15/2010
Kaizen event	6/1/2007

Other	5/23/2017
5S	11/10/2016
Value stream mapping event	5/4/2016
Kaizen event	
Mini-Lean	
"Just do it"/Quick win	9/6/2016
Other	
Kaizen event	4/24/2017
Value stream mapping event	
Mini-Lean	1/22/2015
Value stream mapping event	
Other	4/6/2016
"Just do it"/Quick win	8/4/2016
Mini-Lean	6/21/2016
Other	3/16/2017
Kaizen event	5/31/2017

5S	8/30/2017
Kaizen event	
Kaizen event	
Other	3/20/2017
"Just do it"/Quick win	8/24/2016
Mini-Lean	10/26/2016
Mini-Lean	3/16/2017
Six Sigma	
Mini-Lean	10/7/2016
"Just do it"/Quick win	9/8/2015
Mini-Lean	11/7/2016
Other	12/20/2016
5S	6/22/2017
"Just do it"/Quick win	5/23/2017
Kaizen event	9/15/2014

Kaizen event	9/1/2014
Kaizen event	8/6/2012
Traditional Project Team Meeting Format	
Kaizen event	9/1/2014
Value stream mapping event	6/1/2015
Mini-Lean	8/1/2015
Value stream mapping event	5/1/2015
Traditional Project Team Meeting Format	3/1/2015
Value stream mapping event	2/1/2015
Kaizen event	2/1/2015
Traditional Project Team Meeting Format	6/1/2015
Kaizen event	1/1/2012
Kaizen event	9/1/2014
Mini-Lean	12/2/2016
Value stream mapping event	
Kaizen event	5/1/2014
	2/1/2013

Value stream mapping event	
Value stream mapping event	5/17/2017
Kaizen event	
Other	5/3/2017
Mini-Lean	3/3/2016
Other	3/9/2017
Kaizen event	3/21/2017
Mini-Lean	
Traditional Project Team Meeting Format	9/30/2016
Mini-Lean	
Kaizen event	
Kaizen event	
Value stream mapping event	
Kaizen event	10/7/2016

Traditional Project Team Meeting Format	4/3/2017
Mini-Lean	
Kaizen event	11/1/2014
Kaizen event	2/1/2015
Traditional Project Team Meeting Format	3/1/2015
	11/1/2013
Kaizen event	1/1/2014
Traditional Project Team Meeting Format	
Mini-Lean	4/18/2016
Other	7/7/2016
Kaizen event	9/12/2016

Value stream mapping event	
Value stream mapping event	
"Just do it"/Quick win	
Value stream mapping event	2/1/2015
Kaizen event	
Six Sigma	
Six Sigma	8/25/2017
Six Sigma	8/18/2017
Six Sigma	
Kaizen event	
Six Sigma	3/8/2017
Value stream mapping event	
Value stream mapping event	
Six Sigma	8/15/2017
Kaizen event	10/1/2014
Six Sigma	3/15/2017
"Just do it"/Quick win	
Kaizen event	10/11/2016
Kaizen event	
Kaizen event	6/1/2012

Kaizen event	12/1/2013
Kaizen event	8/1/2013
Kaizen event	3/1/2011
Kaizen event	
Kaizen event	1/1/2015
Value stream mapping event	1/1/2006
Kaizen event	1/1/2013
Other	6/14/2017
Kaizen event	3/30/2015
Kaizen event	8/1/2016
Other	12/11/2017
Mini-Lean	
Kaizen event	8/28/2017
Kaizen event	3/28/2016
Kaizen event	11/1/2016
Kaizen event	
Value stream mapping event	2/1/2015

Value stream mapping event	1/1/2015
Kaizen event	2/17/2015
Kaizen event	1/1/2014
Kaizen event	4/1/2015
Value stream mapping event	3/1/2015
Other	
	1/1/2014
Kaizen event	1/1/2014
Kaizen event	7/27/2015
Kaizen event	6/20/2017
Kaizen event	
Kaizen event	2/29/2016
Kaizen event	
"Just do it"/Quick win	9/1/2013
Traditional Project Team Meeting Format	
Kaizen event	
Kaizen event	

Kaizen event	5/1/2015
Kaizen event	3/1/2015
Kaizen event	
Kaizen event	7/1/2014
	10/1/2014
Traditional Project Team Meeting Format	2/10/2017
Kaizen event	3/1/2015
Kaizen event	6/1/2014
Kaizen event	
Value stream mapping event	
"Just do it"/Quick win	
Traditional Project Team Meeting Format	
Value stream mapping event	
"Just do it"/Quick win	
Kaizen event	7/1/2014
Mini-Lean	
Kaizen event	5/12/2014
	12/1/2008
Kaizen event	7/1/2015
Kaizen event	10/1/2012

Kaizen event	
Mini-Lean	1/1/2015
Kaizen event	7/1/2014
	12/1/2010
Kaizen event	12/1/2015
Kaizen event	
Kaizen event	6/9/2016
Kaizen event	11/17/2016
Value stream mapping event	8/19/2016
"Just do it"/Quick win	
Mini-Lean	1/25/2017
Kaizen event	5/1/2014
Value stream mapping event	7/1/2010
Kaizen event	8/1/2014
Kaizen event	2/1/2014
Kaizen event	9/1/2014
Kaizen event	1/1/2015
Value stream mapping event	11/1/2014
Kaizen event	9/1/2014
Kaizen event	9/1/2014
Kaizen event	4/2/2018
Kaizen event	3/1/2015

Kaizen event	3/1/2015
Traditional Project Team Meeting Format	
Other	10/8/2015
Kaizen event	5/9/2017
Kaizen event	6/1/2015
Kaizen event	8/1/2014
Kaizen event	5/9/2017
Kaizen event	6/1/2015
Kaizen event	7/1/2015
Other	
Other	
Kaizen event	
	1/1/2015
Other	5/1/2015
5S	
Mini-Lean	7/1/2014
Kaizen event	3/1/2015


Kaizen event	
Kaizen event	12/7/2015
5S	6/7/2017
Other	
	8/24/2015
Kaizen event	3/1/2015
Mini-Lean	2/21/2018
Value stream mapping event	6/1/2015
Value stream mapping event	
Kaizen event	12/5/2017
Kaizen event	5/9/2016
Value stream mapping event	12/7/2015
Kaizen event	1/1/2015
Mini-Lean	
Value stream mapping event	
	5/1/2008
Mini-Lean	
Kaizen event	10/1/2014
"Just do it"/Quick win	

MEMORANDUM

SUBJECT: Recusal Statement

FROM: William L. Wehrum
Assistant Administrator

TO: Andrew R. Wheeler
Acting Administrator


9-17-18

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligations to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Hunton & Williams LLP** (now Hunton Andrews Kurth LLP), or any former client to whom I provided legal services during the past two years, is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties.

RECUSAL LIST	
In effect until November 12, 2019	
FORMER EMPLOYER: Hunton & Williams LLP (now Hunton Andrews Kurth LLP)	
FORMER CLIENTS: ¹	
Agrium Inc.; Agrium U.S. Inc.; Nu-West Industries, Inc. American Forest & Paper Association American Fuel & Petrochemical Manufacturers American Petroleum Institute B10 Litigation Coalition Brick Industry Association CEMEX USA, Inc. Champion Power Equipment, Inc. Chemical Safety Advocacy Group (CSAG) Chevron Corporation Diageo Dominion Resources Services, Inc. Duke Energy Corporation Enbridge, Inc. Evonik Corporation ² ExxonMobil Corporation Flint Hills Resources, LP GPA Midstream Association (formally known as Gas Processors Association)	General Electric Company Georgia-Pacific LLC Kinder Morgan, Inc. Koch Companies Public Sector, LLC Koch Industries, Inc. Lehigh Hanson, Inc. Lowe's Companies, Inc. National Stone, Sand and Gravel Association Pfizer Inc. Phillips 66 Company Portland Cement Association Prinoth Ltd. Salt River Project Spectra Energy Corp. Sunflower Electric Power Corporation, Inc. Tile Council of North America Utility Air Regulatory Group Utility Water Act Group Whitaker Greer Company

¹ Two confidential clients are not listed. Both clients have a written confidentiality agreement expressly prohibiting disclosure.

² Includes but not limited to an ongoing settlement negotiation.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Attached is a list of cases I am recused from given my participation at Hunton Andrews Kurth LLP.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above or matters identified in the Attachment, I will instruct Josh Lewis, Chief of Staff, and Mandy Gunasekara, Principal Deputy Assistant Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities or matters on my recusal list should be directed to Josh and Mandy without my knowledge or involvement until after my recusal period ends.

If Josh or Mandy determine that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my recusal or screening arrangement, I will provide a copy of the revised recusal statement to OGC/Ethics.

Attachment

cc: Matthew Z. Leopold, General Counsel
 Ryan Jackson, Chief of Staff
 Mandy Gunesakara, Deputy Assistant Administrator
 Clint Woods, Deputy Assistant Administrator
 Elizabeth Shaw, Deputy Assistant Administrator
 David Harlow, Senior Counsel
 Josh Lewis, Chief of Staff
 Kevin Minoli, Designated Agency Ethics Official
 Justina Fugh, Senior Counsel for Ethics

William L. Wehrum RECUSAL LIST – ATTORNEY BAR OBLIGATIONS	
CASE NAME:	CITATION:
American Petroleum Institute v. EPA	No. 08-1277 (D.C. Cir.)
Environmental Integrity Project v. EPA	No. 08-1281 (D.C. Cir.) (consolidated with No. 08-1277)
Kinder Morgan CO2 Co., LP v. EPA	No. 09-1332 (D.C. Cir.)
Gas Processors Association v. EPA	No. 11-1023 (D.C. Cir.)
American Petroleum Institute, <i>et al.</i> v. EPA	No. 11-1309 (D.C. Cir.)
National Rural Electric Coop. v. EPA	No. 12-1208 (D.C. Cir.) (consolidated with No. 12-1163)
National Rural Electric Coop. v. EPA	No. 12-1352 (D.C. Cir.) (consolidated with No. 12-1346)
American Petroleum Institute v. EPA	No. 12-1405 (D.C. Cir.)
Gas Processors Association v. EPA	No. 12-1406 (D.C. Cir.) (consolidated with No. 12-1405)
American Petroleum Institute, <i>et al.</i> v. EPA	No. 12-1442 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 13-1063 (D.C. Cir.) (consolidated with No. 11-1309)
American Petroleum Institute v. EPA	No. 13-1108 (D.C. Cir.)
Conservation Law Foundation, <i>et al.</i> v. EPA	No. 13-1233 (D.C. Cir.)
Sierra Club, <i>et al.</i> v. EPA	No. 13-1256 (D.C. Cir.) (consolidated with No. 16-1021)
American Petroleum Institute v. EPA	No. 13-1289 (D.C. Cir.) (consolidated with No. 13-1108)
PSEG Power LLC, <i>et al.</i> v. EPA	No. 14-1199 (D.C. Cir.) (consolidated with No. 13-1233)
Georgia-Pacific LLC v. EPA	No. 14-1267 (D.C. Cir.)
Gas Processors Association v. EPA	No. 15-1021 (D.C. Cir.) (consolidated with No. 15-1020)
American Petroleum Institute v. EPA	No. 15-1044 (D.C. Cir.) (consolidated with No. 13-1108)
American Petroleum Institute v. EPA	No. 15-1197 (D.C. Cir.)
Gas Processors Association v. EPA	No. 15-1473 (D.C. Cir.)
Sierra Club, <i>et al.</i> v. EPA, <i>et al.</i>	No. 15-1487 (D.C. Cir.)
Brick Industry Association v. EPA	No. 15-1492 (D.C. Cir.) (consolidated with No. 15-1487)
Sierra Club, <i>et al.</i> v. EPA, <i>et al.</i>	No. 16-1021 (D.C. Cir.)
American Fuel & Petrochemical, <i>et al.</i> v. EPA	No. 16-1033 (D.C. Cir.)
Air Alliance Houston, <i>et al.</i> v. EPA, <i>et al.</i>	No. 16-1035 (D.C. Cir.) (consolidated with No. 16-1033)
Brick Industry Association v. EPA	No. 16-1179 (D.C. Cir.) (consolidated with No. 15-1487)

American Petroleum Institute v. EPA	No. 16-1270 (D.C. Cir.) (consolidated with No. 13-1108)
American Petroleum Institute v. EPA	No. 16-1271 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 16-1345 (D.C. Cir.) (consolidated with No. 16-1344)
Natural Resources Defense Council v. EPA	No. 16-1425 (D.C. Cir.)
Utility Air Regulatory Group v. EPA	No. 17-1088 (D.C. Cir.) (consolidated with No. 17-1085)

Senator BARRASSO. Well, thank you very much for your testimony.

We will start with some questioning, if I may, and I wanted to start by mentioning what I see happening right now in the State of Washington.

The State of Washington is abusing Section 401 of the Clean Water Act in order to block the development of the coal export terminal in that State. The terminal would ship coal from Wyoming, Montana, Utah, and Colorado to markets in Asia. The State of Washington has cited reasons for objecting to the terminal that had nothing to do with water quality, yet they are using Section 401 of the Clean Water Act.

I introduced a bill this week to address this problem. We can't allow States to block the export of American energy.

Will you commit to working with me to identify both legislative and regulatory solutions to stop these abuses?

Mr. WHEELER. Yes, Senator, I will.

Senator BARRASSO. Recently, there have been some stories in the press discussing some of your recusals from former clients that you took in terms of meetings you have taken as Deputy Administrator, so I would like to give you the opportunity to address the stories, and if necessary, clarify the record. Visit with us about that, and maybe tell the Committee how you are going to honor your recusals from former clients.

Mr. WHEELER. Absolutely. I have committed, under both the Trump ethics pledge and the ethics regulations, to follow all the guidelines. I have worked with our career ethics official at the EPA. I met with her for the first time before I was actually nominated to go over what the requirements would be, and I have not met with any of my clients that I represented for the 2 years prior to joining the Agency.

There is one article that mentioned that there was a former client that was in a couple of meetings that I attended. I want to clarify that those weren't meetings; they were actually speeches. I gave speeches at two trade associations, and the client was in the audience in those speeches. And according to ethics, as long as there are more than five people, and there were five times as many people as that in the audience, and I can't control the people that attend a public speech.

Senator BARRASSO. Thank you.

The Clean Air Act requires that EPA grant relief to small refineries which suffer disproportionate economic hardship under the Renewable Fuel Standards, the RFS. The law explicitly states that a small refinery may petition the EPA for hardship relief "at any time."

Do you agree that EPA doesn't have the authority to limit when small refineries can apply for hardship relief?

Mr. WHEELER. Absolutely. We cannot limit when they apply for the relief, no.

Senator BARRASSO. The law further states the EPA must act within 90 days upon receiving a petition from a small refinery.

Do you agree the EPA doesn't have the authority to delay decisions on a small refinery's petition beyond 90 days?

Mr. WHEELER. I am not sure, to the extent that we have met the 90-day requirements, but we certainly try to meet all the requirements under all of our statutes.

Senator BARRASSO. In December 2017 I sent Administrator Pruitt a letter encouraging the EPA to withdraw its proposed rule on in situ uranium recovery, ISR. The Obama administration proposed the rule on January 19th, 2017, the final day before President Obama left office. Since then, the Nuclear Regulatory Commission, our Nation's principal nuclear regulator, has stated that there is "no health or safety jurisdiction for EPA's rulemaking."

Uranium production is vital to our country's national security, our energy security. Wyoming produces more uranium than any other State. When can we expect the EPA to scrap this unnecessary regulation that came out kind of a midnight regulation, came out by the Obama administration on the final day of that 8-year administration?

Mr. WHEELER. Senator, I have not had the opportunity to be briefed on that in the last 4 weeks, but I know that the Nuclear Regulatory Commission also has concerns about that, and we will try to work forward on that expeditiously.

Senator BARRASSO. During the first year of the Trump administration, it is my understanding that EPA finalized 22 deregulatory actions. According to your Agency, these actions could save over \$1 billion in regulatory costs to Americans. Just last July it was announced that the American economy grew 4.1 percent. This continues the trend of strong economic growth under the Trump administration.

In your opinion, is the Administration's approach to environmental deregulation at the EPA protecting the environment, while also helping our economy? Essentially can we have both a strong economy and a healthy environment at the same time?

Mr. WHEELER. Yes, we can, and I think the data shows that. Thank you.

Senator BARRASSO. Senator Carper.

Senator CARPER. Again, welcome today, and thank you for—

Mr. WHEELER. Thank you, and thank you for the Coke. I need to clear that through our ethics in-house, but I do appreciate that. Thank you.

Senator CARPER. If it doesn't clear, I am sure you will have some takers here. I would be happy to bring out the ice.

Mr. WHEELER. I would be happy to buy it from you.

Senator CARPER. Mr. Wheeler, you have told me more than once that you share my goal, I think our goal, of striking a deal between automakers in the State of California and other States on fuel economy and greenhouse gas tailpipe standards. A win-win is what we are looking for.

The auto industry and the State of California also repeatedly told me that they want a deal. Unfortunately, the Administration's proposal that is being released this week is reported to freeze standards at model year 2020 levels, eliminate technology incentives, and preempt California and the 12 States that have followed California's lead, which I believe would be a lose-lose-lose situation; a loss for an industry that needs certainty and predictability, a loss for consumers, and a loss for our environment.

The largest source of air pollution in our country today is not coal fired utilities, it is not manufacturing, it is not cement plants; it is mobile sources. That is No. 1. So, I have a couple of questions to pursue in this regard.

First, if you were presented with a proposal that both the auto industry and the State of California, and 12 States aligned with them, could support, would you welcome such a compromise?

Mr. WHEELER. I would certainly welcome such a compromise. The proposal that is coming out this week, first, it is a proposal, and we are taking a range of comments from a flatline approach all the way to the numbers that President Obama's proposal had, and a number of steps in between. So, we are taking comments on all of those levels, and we would welcome any comments or proposals from any of the impacted groups, absolutely.

Senator CARPER. To follow up on that, could we assume on this Committee that if there was such a deal, essentially a 50-State deal, there would be no effort to preempt California?

Mr. WHEELER. I mean, it is my goal, it is the Administration's goal to come up with a 50-State solution, and we want to have a 50-State solution that does not necessitate preempting California. However, there are a number of goals in the proposal, and there are important goals on highway safety, so we would have to make sure that those are met. The proposal will save 1,000 lives per year, which I think is very important, and make sure that we maintain that in any final regulation that goes forward.

Senator CARPER. I do a lot of customer calls, and I know my colleagues do as well, businesses large and small. Delaware used to build more cars, trucks, and vans per capita than any State in America. We had a GM plant, Chrysler plant that employed 8,000 people, and those two plants, lost them both at the bottom of the great recession.

I still do customer calls with the auto industry, and I ask them three questions: How are you doing? How are we doing? And what can we do to help? Unanimously, they say, with respect to this, what you can do is give us predictability and certainty. They say we don't want to have to build one Chevrolet Malibu for California and 12 other States, and then a different model for the other 37 States.

They say we want to have more near term flexibility on these standards, but we are happy to have more rigorous standard going forward. We don't want to be in court for the next 5 or 6 or 7 years with California and other States. Give us the certainty and predictability, and enable us to really compete with the rest of the world when we get to 2025 and 2030.

I just ask that we keep that in mind.

Mr. WHEELER. Yes, Senator.

Senator CARPER. Second, cross-State pollution. Delaware and other States have made great strides in cleaning up our State's ozone pollution, yet northern Delaware—where my family and I live, where two-thirds of our citizens live—still does not meet ozone health standards due to emissions not from within our State, but from other States' dirty cars and power plants drifting into our State.

Ninety-four percent of our air pollution in Delaware comes from sources outside of us, largely from the west and the north. In 2016 Delaware filed four clean air petitions with EPA—four—showing that four fossil fuel plants, three in Pennsylvania and one in West Virginia, are contributing to our unhealthy ozone days.

The cleanup solutions are easy. The three facilities in Pennsylvania have clean air pollution technology installed. They don't use it. They don't use it. The coal facility over in West Virginia, my native West Virginia, they could go to natural gas and help not only their air quality, but ours as well. We thought Delaware's case was a slam dunk, and I was shocked when EPA proposed to reject these petitions.

Just a couple yes or no questions, if I could.

Before making a final decision, would you commit to reviewing Delaware's rebuttal to EPA's proposed rejections, which were sent to you July 23rd, 2018? I am asking for you just to commit to review our rebuttal.

Mr. WHEELER. I would be happy to review that, Senator, yes.

Senator CARPER. Thank you.

Since EPA has refused to have a hearing on this issue in Delaware, would you commit to meet personally with State of Delaware officials before making a final decision on this matter at the place and time of your convenience?

Mr. WHEELER. I would be happy to talk to the officials in Delaware, yes.

Senator CARPER. Thank you.

I don't usually ask yes or no questions, so bear with me, please.

When making final decisions on any Section 126 petition from some of the other States on the end of America's tailpipe, our neighboring States, will you follow the spirit and letter of the law, which requires EPA to prioritize the residents of the State which receive the pollution?

Mr. WHEELER. Yes, Senator, we will follow the letter and spirit of the law. I would add, also, that on the cross-border side, we are working with States to develop new technical tools to help them facilitate the Good Neighbor State plans. On the ozone, at this point, we are showing that all the areas, except for a few areas that have been longstanding in non-attainment, should be in attainment by the early 2020s.

Senator CARPER. All right.

Mr. WHEELER. We are very positive about the data that is coming in on that.

Senator CARPER. I would just say, Mr. Chairman, if I could, in closing, I think everybody on this Committee—I know the folks here pretty well, and we are Golden Rule people; we treat other people the way we want to be treated, and the idea that folks in States to our west put up pollution, keep their air clean, their health care costs low, and we end up with dirty air and higher healthcare costs, it is just not fair. It is not the way to treat our neighbors.

Thank you.

Mr. WHEELER. Thank you, Senator.

Senator BARRASSO. Thank you, Senator Carper.

Before turning to Senator Inhofe, Andrew, I would say that we are going to start voting shortly, and I will go vote and turn the chair over to Senator Inhofe at the time, who will be chairing the Committee until I return.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

First of all, I liked your opening statement. It is certainly that we want and that we deserve, which we have not been historically given.

I want to elaborate a little bit with a question asked a little bit differently than the comment by the Ranking Member.

Last year, the EPA, along with the Department of Energy, granted 33 of 34 hardship exemptions to refineries due to high RIN costs. The EPA was sued on one petition it denied and ended up losing in court. Opponents of these exemptions say that the refineries are not under a hardship, even though they are actually paying more than their payroll to comply with these mandates that are out there.

If you look at the fact that the EPA has now lost twice in court for not approving exemptions, the EPA is simply applying the law when it does grant them and they should be approving more of them.

How does the EPA thread this needle?

Mr. WHEELER. It is a very difficult needle to thread. We are following the statute, and we now have had two court cases that have ruled against the Agency on the granting of the exemptions. We also have appropriations language to remind us to grant the small refinery exemptions.

One area we are trying to do is to provide more transparency around the decisions that we are making on the small refinery exemptions, and I think that will help clear up a lot of the concerns around the issue.

Senator INHOFE. Yes, I think it will.

Now, President Trump and you have committed to returning EPA to cooperative federalism, which I applaud. Unfortunately, some have confused that principle with coercive federalism, where one State dictates their standard to all others. When it comes to the auto industry—and we talked about this a minute ago—the last Administration handed over car emission standards to California, but other States didn't get to weigh in. Because of this, Oklahomans, my State of Oklahoma, are paying more for their SUVs and trucks to subsidize electric cars so California drivers can afford them, which I find personally a little offensive.

I applaud the EPA and NHTSA for revisiting the mid-term review done at the last minute by the Obama administration.

Now, EPA doesn't have any statutory direction for its auto regulations, but NHTSA does. Do you think EPA and NHTSA should harmonize their regulations so technological feasibility and consumer costs are considered?

Mr. WHEELER. Yes, Senator, I do, and that is what we have done.

Senator INHOFE. All right.

Last, I had the honor of attending your opening statement. It was a very good statement. You had all the employees, I don't know how many hundred were there, but you got a very fine re-

sponse from them. In your opening remarks to the EPA employees, you mentioned the fact that the United States is the gold standard worldwide for the environmental protection and that pollution regulated under NAAQS has dropped 73 percent. You mentioned this again in your opening statement. Nobody ever talks about the success that we have, that we are riding on.

Meanwhile, our economy has expanded three times over, and yet the pollutions regulated dropped some 73 percent.

The problem that we had in the 8 years of the Obama administration was the use of regulations to punish industries and States to reshape our economy with little to no benefit for the environment.

Can you elaborate on how you have both a clean environment without handcuffing our economy? How do you plan to do that?

Mr. WHEELER. Absolutely. I think that goes to my comments on certainty. I think if we provide more certainty not just to the regulated community, but to the American people, so that everyone understands the decisions that we are making and why we are making them, we will continue to improve the environment and provide that certainty that businesses are looking for.

Senator INHOFE. That is good.

Aren't there instances where regulations such as the New Source Review can actually get in the way of reducing pollution?

Mr. WHEELER. It can. It can be a disincentive for installing cleaner technologies. And we are trying to stop that.

Senator INHOFE. Good. Good. Thank you very much. You did a great job.

Mr. WHEELER. Thank you, Senator.

Senator BARRASSO. Thank you, Senator Inhofe.

Senator Cardin.

Senator CARDIN. Mr. Wheeler, welcome. It is a pleasure to have you here.

Mr. WHEELER. Thank you, Senator.

Senator CARDIN. I noticed your comments about the improvements in air over the last 40, 50 years. I might tell you we have seen remarkable improvement in the Chesapeake Bay during that period of time, and I say that because the Chesapeake Bay also has been a program that was developed with State flexibility. It is State blueprints that are agreed to by the six surrounding States of the Chesapeake Bay Watershed, as well as the District of Columbia, and it has had the strong support from Congress, including this Committee recently, as well as from the Environmental Protection Agency.

My first question, recognizing the importance of the Chesapeake Bay not just to the surrounding States, but to our region, it is the largest estuary in our hemisphere, will you continue the traditional Environmental Protection Agency support for a strong Federal role in coordinating the work that is done on the Chesapeake Bay?

Mr. WHEELER. Absolutely. In my first week as the Deputy Administrator, I attended the Chesapeake Bay Commission, and next week I will be attending the Chesapeake Bay Leadership Council in Baltimore. It is a high priority for us. I actually live in the Chesapeake Resource Protection Area, and it is a high priority for the Agency.

Senator CARDIN. I don't consider that to be a conflict, so you can do whatever you want to to protect our Bay. I would just ask you also to work closely with the members of this Committee and Congress that have a deep interest in the Chesapeake Bay.

Mr. WHEELER. Yes, I will.

Senator CARDIN. Thank you.

The EPA Inspector General recently released a report analyzing the Federal Government's role in the lead contamination crisis in Flint, Michigan, with the hopes of avoiding another crisis in another city.

Will you accept and implement the recommendations of the Inspector General?

Mr. WHEELER. I know that our staff has reviewed the recommendations and we are in the process of planning an implementation program to make sure that we implement them. I haven't been fully briefed on how we are going to implement them yet, but it is a high priority for the Agency, and we are moving forward to make sure that something like Flint, Michigan, does not happen again.

Senator CARDIN. I guess that is the strongest commitment I am going to get here today, but I would just urge you, the Inspector General gives an independent view.

Mr. WHEELER. Yes.

Senator CARDIN. It is important that their report receives the respect from the Agency.

Mr. WHEELER. It is.

Senator CARDIN. Thank you.

I also appreciate what you said about the work force, the people that work at the EPA. The first question I have, I recognize the struggle that every cabinet person has with OMB, but are you going to be an advocate for the funds necessary for the EPA in order to be able to carry out its work and be there fighting for the resources you need to carry out your mission?

Mr. WHEELER. Yes, I am an advocate for the resources that we need, and we will fully implement the appropriations that Congress gives us.

Senator CARDIN. That was the second question I was going to ask; you already anticipated it. The former staffer here understands the questions that are coming; that is good.

Let me just follow up on that. You said that you wanted to respect the recommendations given to you by your scientists and your professional staff. I assume that also means the Science Advisory Board. That is a resource that you have, and it has been called into challenge in the last 2 years.

Are you committed to allowing the experts to give you unfettered information for you to make decisions that need to be made? Will you also commit to allow them to participate in policy conferences so that you can have the interaction which we have seen over the long period of time with EPA?

Mr. WHEELER. Yes, Senator, I would commit to both of those.

Senator CARDIN. Thank you.

Last, let me just ask you about your vision as to what you need in support in order to carry out your mission. The EPA is responsible for clean air, clean water, and for our clean environment. You

have a new toxic chemical law that has been working on. There is concern that chemicals are not being treated as intended by Congress.

Do you pledge to work with us and outside interest groups to make sure that we do get an independent evaluation of issues such as toxic chemicals to make sure that they are given the independent evaluation as to whether they need to be regulated?

Mr. WHEELER. Yes, Senator, I do. I started my career in the toxics chemical program at EPA in 1991. I worked there for 4 years, and I am excited to be part of the implementation of the new Lautenberg Chemical law, and we want to make sure that we are implementing it in the same manner in which Congress intended it when they passed it.

Senator CARDIN. And if we have information, you will consider the information we send to you?

Mr. WHEELER. Yes, Senator, I will.

Senator CARDIN. Thank you.

Senator BARRASSO. Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman.

Thank you for being here today to testify.

Senator Inhofe mentioned earlier the importance of certainty, and one of the things I would like to ask you about is the fact that on June 27th, then EPA Administrator Pruitt issued a memo reorienting the Agency's approach to when and how it would veto Clean Water Act Section 404 permits issued by the U.S. Army Corps of Engineers.

Recognizing the Agency has not acted on the authority often—only 13 times since 1980—the threat remains that the EPA could stop an infrastructure project that has already gone through a lengthy and expensive permitting process and already received approval to proceed. Threat adds uncertainty to permitting and jeopardizes support for infrastructure projects.

Will EPA, under your direction, proceed with the rulemaking to align the 404(c) process with the June 27th memo?

Mr. WHEELER. We are looking into that, and as we move forward, I think it is very important to provide that certainty, and I agree that, even though it has been rarely used by the Agency, it has created a lot of uncertainty even when it wasn't used.

Senator BOOZMAN. Good. We would appreciate your looking at that.

As Acting Administrator, you will have a highly influential role in advising the President on how to implement or modify the regulatory footprint of environmental policy in our Nation. How do you anticipate your past experiences will help in improving the way the EPA engages with all stakeholders?

Mr. WHEELER. First of all, having started my career at the Agency as a career employee, I think that has helped me a lot in understanding the processes and the people of the Agency. But I think my 14 years working here at this Committee and meeting with a wide variety of stakeholders from a number of States all across the country, international as well, has given me appreciation for the different conflicting policy areas that we have at the Agency and that we need to make sure that we are talking to all interested groups as we move forward with any regulation.

Senator BOOZMAN. Very good.

A criticism of EPA during the previous Administration was the Agency's disconnect with rural America. Rural America is having a difficult time right now. Many hardworking Americans in rural States felt they did not have a voice, and their opinions did not matter.

What have you done, what do you feel, in other words, what is your planning in the future to facilitate a stronger level of trust between EPA and rural America?

Mr. WHEELER. I think it is very important to make sure that all of our regulatory actions, our guidance documents, everything takes into account the impact on rural America. The announcement that we made last week on the sorghum pathway for the renewable fuels, that is going to help a lot of rural communities across the upper Midwest. I think making sure that we take actions like that to help grow the economy in rural areas is very important.

Senator BOOZMAN. Very good.

EPA, during the Obama administration, encroached into other agencies' jurisdictions, resulting in EPA making decisions on issues where they lack the expertise.

Can we count on you to work with other agencies and take their expertise into careful consideration when developing and implementing rules and regulations?

Mr. WHEELER. Yes, we will. We are taking those into consideration, Senator.

Senator BOOZMAN. It seems to me that our air permitting system is in desperate need of updating. The current system we have in place sometimes overstates the air quality impacts of new projects, which can lead to delays or canceled investments and lost opportunities.

What does the Agency plan to do to fix the broken permitting and New Source Review programs?

Mr. WHEELER. We have implemented several guidance documents, new guidance to the States and to the community on New Source Review, and we are looking at those now to see which ones of those we need to move forward on regulatory actions to make sure that we provide that certainty.

As Senator Inhofe said on New Source Review, oftentimes it can be counterproductive on cleaning up the environment when it is a disincentive for installing cleaner, more efficient technologies.

Senator BOOZMAN. Very good.

Companies have made billions of dollars in investments complying with the 2013 Boiler Maximum Achievable Control Technology rule. While the rule was expensive, it was generally achievable. Unfortunately, regulatory uncertainty remains, given recent court decisions sending a couple of issues back to EPA to address.

When will EPA complete this rulemaking so facilities can know they have met all of their boiler obligations?

Mr. WHEELER. Senator, I am not positive on the timeline for that, but I would be happy to look into that and get back to your office.

Senator BOOZMAN. Thank you very much.

Thank you, Mr. Chairman.

Mr. WHEELER. Thank you, Senator.

Senator INHOFE [presiding]. Thank you, Senator Boozman.

Senator Booker.

Senator BOOKER. Thank you very much, Mr. Chairman.

Thank you very much, sir. It is good to see you here.

Mr. Wheeler, I want to focus on EPA's TSCA implementation, if I can, and I would like to start by saying that I am pleased with the strategic plan that the EPA released to reduce animal testing. I was really grateful for that, and I hope that this is an issue that we can work together on moving forward.

But overall, I am concerned about how the EPA is choosing to implement the changes to TSCA that my colleagues and I on this Committee—in a bipartisan way—worked so hard on last Congress. I know you are probably aware of that.

One area I am concerned about is EPA's failure to consider all the sources of exposure that people have to the toxic chemicals that EPA has started to review. In our amended TSCA law, EPA was told by Congress to examine the safety of all known, intended, and reasonably foreseeable uses of a chemical, and the combined impacts of all exposures to a particular chemical, when making their determination about whether a chemical presents an unreasonable risk of harm.

But EPA's problem formulations have dramatically narrowed the conditions that the Agency will use to evaluate the safety of the first 10 chemicals under TSCA. EPA is now indicating that it will ignore known exposures to those first 10 toxic chemicals, including for the known carcinogen TCE. EPA has warned since 2011 that TCE causes cancer, and in 2017 proposed to ban specific uses of TCE. But under Scott Pruitt's leadership, EPA proposed to indefinitely postpone the ban on this deadly chemical.

In New Jersey, we have many communities that have been harmed by TCE, but there is one community outside of New Jersey, in Franklin, Indiana, that I want to focus on. In Franklin, they discovered that the community has high levels of TCE in their groundwater and in the air outside many homes, and the children in Franklin are getting cancer at inordinately high rates.

Carrie and Matt Rhinehart, who are in the audience right now, their daughter Emma Grace died 4 years ago from brain cancer when she was 13 years old. Stacy and Matt Davidson, who are also here, their son Zane has leukemia, but thank God, it is currently in remission.

High level exposure of TCE makes these families partly vulnerably subpopulation under the TSCA law, but EPA is now saying that it will ignore exposures that come from land, air, and water, meaning it will ignore the types of TCE exposures that these and other families have so painfully endured in deciding whether or not TCE is safe.

The scaling back of our bipartisan chemical safety law, one of the prouder moments I have had as a Senator, was set in motion by Scott Pruitt, and I am really hopeful that you are going to reverse course on what I think is a bad decision, and the families here agree with me.

So, Mr. Wheeler, as part of the evaluation process, would you commit to comprehensively reviewing the risks of chemicals like

TCE by including known releases of chemicals into our air, water, and land, releases that threaten communities across the country?

Mr. WHEELER. Senator, I am trying to keep track of all the parts of your question. On the last, let me start with that. It is tragic for any chemical to cause the death of a child, and my heart goes out to those families impacted by that. Absolutely, we need to be moving forward to do something on TCE and the other chemicals, which is why we included TCE on the list of the first 10 chemicals for review.

Senator BOOKER. Well, I guess a yes or no is what I was asking. Would you commit to comprehensively reviewing the risks of chemicals by including known releases into our air, land, and water, released like TCE?

Mr. WHEELER. It is my understanding that we are looking at those pathways as we look at the chemicals on the list. I will need to double-check with our chemical office on that, but it is my understanding it is part of the 10 chemicals, as TCE being one of the first 10 chemicals that we are examining, that we are examining the different pathways.

Senator BOOKER. What I worry about, it was Scott Pruitt's decision to move forward within 30 days to finalize the ban on specific uses of TCE. I am worried that that is something that is moving forward. We need to reverse that decision. Do you understand?

Mr. WHEELER. I think I understand what you are saying, but let me check on the status of that.

Senator BOOKER. And then let me very quickly, methylene chloride. In January 2017 EPA proposed banning all consumer and commercial uses of methylene chloride in paint strippers. The ban, though, was never finalized.

In May your predecessor agreed to meet with mothers whose sons died suddenly from using paint strippers containing this toxic chemical, and a few days later, Scott Pruitt, today, we are going to finalize the proposed rule and send it out shortly, but since then we have seen nothing. It has been several months, and the mothers who were hoping to prevent other families from experiencing the loss of loved ones, people are really disheartened.

So, my simple question, and I conclude with it, is will you commit to sending the proposed ban of consumer chemicals uses to OMB for the final review in the next 2 weeks?

Mr. WHEELER. Well, we are continuing to work with OMB and the other agencies and departments that have equity on that chemical issue, and we are trying to move that forward as quickly as we can. I can't commit to a specific timeframe, but we are trying to move that forward.

Senator BOOKER. All right. There are a lot of families from the paint stripping chemicals sitting behind you right now that are really relying on you to save lives. There are extraordinary injustices going on with this kind of inaction by your Agency, and I hope that you will move with all deliberate speed to address these concerns.

Mr. WHEELER. Thank you, Senator.

Senator BOOKER. Thank you.

Senator INHOFE. Thank you, Senator Booker.

Senator Ernst.

Senator ERNST. Thank you, Mr. Chair.

And thank you, Mr. Wheeler, for being here today. I appreciate it. I know there has been a lot of talk about the small refinery exemptions, so I am going to dive in right with you.

Over the past year and a half, EPA has taken actions that benefit refiners at the expense of farmers, and by retroactively granting an unprecedented number of small refinery exemptions, EPA effectively waived 2.25 billion gallons from refiners' 2016 and 2017 RFS obligations.

Not only do these actions contradict President Trump's pledge to uphold congressionally mandated volumes, but they have also destroyed corn and ethanol demand, leading to lost income for Iowa's farmers, at a time when farm income is already at its lowest level since 2006.

Yes or no, Mr. Wheeler, do you believe the RFS should be implemented in a manner consistent with the original intent of Congress?

Mr. WHEELER. Yes, I do.

Senator ERNST. Thank you. So, let's distill this even further, then. For compliance year 2017 the EPA granted 29 small refinery exemptions, totaling 1.45 billion gallons, which removes that many gallons from obligated parties' compliance requirement, which is the 15 billion gallons, that is the implied corn ethanol requirement, minus the 1.45 billion gallons is 13.55 billion gallons.

So, you just take the 15 that is implied, that is the requirement, minus the 1.45, and it gives you 13.55 billion gallons. So, that is about 10 percent below the statutory requirement, is that correct? It would be about 10 percent.

Mr. WHEELER. I will trust your math, Senator, yes.

Senator ERNST. OK. So, yes, it is about 10 percent below the statutory requirement. So, if these gallons aren't reallocated somewhere, then you are not implementing the RFS in a manner that is consistent with the original intent of Congress, correct?

Mr. WHEELER. Well, part of the original intent of Congress was also to grant the waivers, and there is not a provision for reallocating that. We are taking a look at that issue, but we are trying to be much more clear and transparent as we grant any small refinery waivers. As you are aware, we have been sued twice on this for not granting enough, and we have lost both times.

Senator ERNST. I understand that. There is also an obligation, though, of 15 billion gallons, so those gallons that have been granted waivers for, we have to figure out a real allocation strategy.

Mr. WHEELER. I agree we have to figure out a real allocation strategy, but we are confined by the law.

Senator ERNST. Thank you. The law does require 15 billion gallons.

So, last November, before this Committee, you were committed to issuing a determination on whether or not the EPA can grant the Reid Vapor Pressure waiver, and just last week, in Iowa, President Trump again expressed support for removing the outdated regulatory barrier preventing the sale of E15 year-round and indicated his Administration is "very close to implementing the RVP waiver."

Can you state for the record that EPA has the authority to begin a rulemaking process to provide RVP relief for ethanol blends of E15 and higher?

Mr. WHEELER. We can certainly start that process. As you know, Senator, there are certainly people that don't believe we have that authority. The legislation that this Committee considered last year would have been very clear in giving EPA that authority, but we are looking at that issue, as you and I have discussed a few times and am happy to discuss with you further, on moving forward on an RVP issue.

Senator ERNST. And we find that that is very important and something that the President has committed to.

I will say, in closing, that RVP parity and the sale of E15 year-round is a no cost solution that will expand a domestic market for farmers who have been adversely impacted by retaliatory tariffs. RVP parity would not only boost commodity prices, but also be viewed across rural America as the Trump administration taking concrete action to help during a time of economic hardship.

Acting Administration Wheeler, I do encourage you to follow through on the President's directive and remove this unnecessary and ridiculous restriction. I look forward to working with you on these issues. I know we will have many, many discussions to follow. Thank you very much.

Mr. WHEELER. Yes, Senator. I look forward to those.

Senator ERNST. Thank you.

Thank you, Mr. Chair.

Senator INHOFE. Thank you, Senator Ernst.

Taking the prerogative of the Chairman, I want to recognize myself for a unanimous consent request.

Last week, Platts ran a story entitled "U.S. Small Refinery Waivers Not Likely Lowering Biofuel Blending." The article cites Sandra Dunphy, an independent analyst who testified last week before the House Energy and Commerce Committee, and I ask unanimous consent to enter this article into the record at this point.

Without objection, so ordered.

[The referenced information follows:]

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OILGRAM NEWS

Volume 96 / Issue 146 / Thursday, July 26, 2018

Hess sees active year offshore Guyana

Drilling program, evaluations of potential developments to intensify

Houston—Hess anticipates an active 2018 drilling program in the Stabroek Block offshore Guyana on the heels of a raised evaluation of resources at the prolific oil-prone play where eight discoveries have been made in the last three years.

- More prospects seen for Stabroek Block
- Appraisals of Ranger, Turbot-Longtail in store
- 3-D interpretation planned for Kaieteur Block

And on Kaieteur, a new offshore block adjacent to Stabroek where Hess took a 15% stake in April, the work program this year calls for processing and interpretation of 3-D seismic and evaluation of future drilling, Hess Chief Operating Officer Greg Hill said during the company's second-quarter earnings call.

ExxonMobil is a partner in both Stabroek and Kaieteur, a 3.3 million-acre block roughly the size of 580 Gulf of Mexico blocks, each of which is three miles square.

At Stabroek, a 6.6 million-acre block, "we

will see numerous more prospects," Hill said. "ExxonMobil said, and we'd agree, there are probably another 20 exploration prospects on the block to drill."

The block partners, which also include China's CNODC, are in the final phases of drilling the top section on an appraisal well at Ranger, a discovery unveiled last January. After that, the Hammerhead prospect will be drilled, after which "we'll most likely go back to Ranger for further appraisal," Hill said.

In addition, the trio also "have a lot of stuff to do at Turbot-Longtail," a potential future development area thought to contain more than 500 million barrels of recoverable oil, he added. More wells are likely in that area, along with a potential "good resource increase."

"There will be more and more at the Turbot-Longtail area," Hill said.

The Turbot discovery was announced last October and Longtail was announced just last month.

Hess CEO John Hess said the partners want

(Continued on page 9)

Russia lifts output forecasts after OPEC move to wind back cuts

Moscow—Russia's energy ministry has increased its forecast for 2018 domestic crude output to reflect the latest decision under the OPEC-led deal on increasing production, energy minister Alexander Novak said Wednesday.

- Crude flows to rise 1% in 2018: Novak
- Forecast sees 2018 output rise 90,000 b/d
- Moscow pledged to pump 200,000 b/d more

Russia is now expected to produce 551 million mt this year, up 0.9% on the year, Novak said. The figure translates to 11.065 million b/d, under the widely used 7.33 barrels per metric ton conversion rate. On that basis, Russian crude output growth this year would amount to about 90,000 b/d, according to the latest forecast.

The ministry's daily output figure, however, has varied in the past because it uses different rates per day depending on the fields from which the crude comes.

"In light of the latest decision on the OPEC plus deal to gradually increase crude output, we

have revised the crude output forecast for the whole of 2018 and have increased it by about 3.5 million mt to 551 million mt," he said in the ministry statement.

Novak said he expects Russian crude output to rise 0.9% in 2018 to 555 million mt, reiterating the forecast from earlier this month, but warning the estimates may change.

"These are preliminary forecasts—a lot will depend on market dynamics and the need to correct our course," he said.

Under the OPEC-led deal in effect from January 2017 and intended to cut a combined 1.8 million b/d of members' output, Russia initially agreed to cut 300,000 b/d from the October 2016 base level of 11,246 million b/d. With the terms of the deal originally expected to apply through 2018, Russia had planned to keep its output flat year on year.

Following the decision in June by OPEC and its partners to boost output by 1 million b/d combined from May levels, however, Russia pledged to bring an extra 200,000 b/d onto the market starting this month.

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US small refinery waivers not likely lowering biofuel blending

Washington—The US Environmental Protection Agency's accelerated use of waivers exempting small refineries from the renewable fuel mandate is not likely lowering biofuel blending, a market expert told a House of Representatives subcommittee Wednesday.

Ethanol credits have plunged 71% since the start of the year, in part because former EPA Administrator Scott Pruitt expanded the use of hardship waivers to small refineries. White House talks to reform the Renewable Fuel Standard, which have been put on indefinite hold, also pushed Renewable Identification Numbers sharply lower.

Sandra Dunphy, director of energy compliance services for Texas-based accounting firm Weaver, said small refiners are not likely taking those waivers for granted for the current year.

EPA issues the waivers for past years' compliance, meaning refiners must continue to blend biofuel and buy Renewable Identification Numbers to fulfill their current-year obligation.

"They will continue to blend renewable fuels and buy RINs as needed because they don't know they're going to get the exemptions at the 12th hour when they go to report to the EPA by March 31 of the following year," Dunphy said.

SGP Global Platts assessed D6 ethanol Renewable Identification Numbers for 2018 compliance at 20.25 cents/RIN Tuesday.

RINs are tradable credits issued by EPA to track production and use of alternative transportation fuels. For corn-based ethanol, one gallon of ethanol yields one RIN.

Dunphy made the comments during a hearing on RINs by the House Energy and Commerce Subcommittee on Environment. She urged the lawmakers to ask small refineries if EPA's waiver policy has changed how they operate.

"I think you will find that they have not changed their blending policy," she said. "They continue to blend, they continue to purchase RINs. What they do is focus on current-year RINs, rather than the prior year."

If the plant receives an exemption later, it can still use the current-year RINs for the following year.

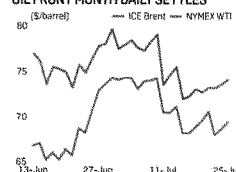
"That puts more RINs into the market," Dunphy said. "But does it destruct demand of the current year? I would say if you look at RIN data through June, we're at the same production level that we were in 2017 and we're halfway towards meeting the 2018 compliance obligations."

"Whether that will hold true for the entire year, I don't know," she said.

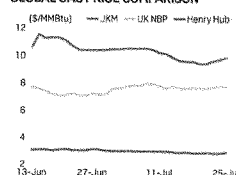
Biofuel groups and lawmakers from farm states accused Pruitt of using the waivers as a backdoor to undermine the biofuel mandate. The process is not expected to change drastically under Acting Administrator Andrew Wheeler.

—bit.ly/2pYUzUj

NYMEX WTI, ICE BRENT CRUDE OIL FRONT MONTH DAILY SETTLES



GLOBAL GAS PRICE COMPARISON



Source: Platts, prices are rounded

S&P Global Platts

OILGRAM NEWS

Volume 96 / Issue 146 / Thursday, July 26, 2018
ISSN: 0163-0284

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Oilgram News is published every business day in New York and Houston by Platts, a division of SGP Global, registered office: Two Nine Plaza, 29th Floor, New York, N.Y. 10029-2098.
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Senator INHOFE. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Welcome, Administrator Wheeler.

Mr. WHEELER. Thank you, Senator.

Senator WHITEHOUSE. As you know, I viewed your predecessor's tenure as one characterized by tawdry personal behavior in office, a desire to do damage to the Agency that he led, a flagrant absence of transactional integrity and horrible environmental policies, and I see you as a remedy to three of those four, so in that sense I welcome you.

Mr. WHEELER. Thank you, Senator, three out of four.

Senator WHITEHOUSE. My visit to you, I appreciated very much your courtesy in having me in, and I very much hope that you follow through on putting Teddy Roosevelt's picture up on your wall. I think that would be a good reminder and a good signal.

A lot of what needed to be repaired at EPA had to do with process stuff, rather than the substantive disagreement you and I may have on environmental issues, and some of the process stuff had to do with enforcement. In the first 9 months of the Trump administration which we have data for, enforcement actions declined by 30 percent compared to the first 9 months of the Bush administration, and more than 35 percent compared to the first 9 months of the Obama administration.

In that same period, EPA sought 50 percent less in fines and money for environmental cleanup than in the Bush administration and almost 90 percent less than under the Obama administration. Some of that appears to have been a decision made by the EPA Office of Compliance and Enforcement to seek headquarters' approval before beginning certain investigatory actions, and I have the memo here: "Effective immediately OECA Headquarters review is required prior to issuance of information requests under the Clean Air Act, RCRA, and the Clean Water Act."

I would ask that memo be made an exhibit.

Senator INHOFE. Without objection.

[The referenced information follows:]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 31 2017

Privileged/Confidential/Do Not Release

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Interim Procedures for Issuing Information Requests Pursuant to Clean Air Act § 114, Clean Water Act § 308, and RCRA § 3007

FROM: Susan Shinkman, Director
Office of Civil Enforcement (OCE)

TO: Regional Counsel
Regional Enforcement Directors
Regional Enforcement Coordinators
OCE Division Directors

This memorandum establishes interim procedures for OECA review of certain information requests before they are issued by enforcement staff.

As you may have seen, on May 15, 2017, OECA's Office of Compliance (OC) issued the attached *Interim Guidance on Required Reporting of Compliance Monitoring Information Requests in ICIS* to ensure a more nationally consistent and complete accounting of federal compliance monitoring and enforcement activities. It requires OECA and regional offices to enter certain minimum data into ICIS after issuance of an information request.

The OC interim guidance also reminds enforcement staff about several important pre-issuance information request considerations (e.g., the need to open a case file and coordinate with other offices as needed). OECA discussed these and other helpful considerations in the attached July 2001 memorandum entitled, *Enhancing the Effectiveness of Information Requests in Regulatory Enforcement Matters*.

EPA has broad authority to investigate whether entities are violating environmental laws. Information requests under CAA § 114, RCRA § 3007 and CWA § 308 are useful and necessary tools that help to ensure that EPA can enforce environmental laws and protect public health. They also can significantly reduce the regulated community's burden by allowing EPA inspectors to more narrowly tailor their onsite inspections and in some cases by demonstrating to EPA that no enforcement action is warranted.

To ensure careful consideration regarding EPA's use of its information gathering authorities, we are implementing the following interim procedures. Effective immediately, OECA HQ review is required prior to issuance of information requests under CAA § 114, RCRA § 3007 and CWA § 308, that meet any of the following criteria:

(a) Requests that require testing or sampling.

Note: No OECA HQ review is required if such sampling or testing is required by law or permit and was not completed by the entity, or for requests merely to produce already-existing sampling/testing data or other documents.

(b) Requests in an authorized or delegated state where EPA knows that EPA and an agency of the state are not in agreement on direction of the matter or interpretation of the law.

(c) Where EPA has no information specific to the recipient indicating that it may be in violation of the law.

Note: As stated in the attached July 2001 memo, when issuing information requests you "do not need to be certain that there is a violation . . . as a matter of Agency practice your prior research should be sufficient to determine that for each recipient there is some basis for believing that the facility may be in violation (e.g., where our research shows that some -- but not all -- elements of liability have been met)."

When considering issuance of information requests meeting any of the above criteria, please share your proposal (including both the draft request and any explanatory materials) with the appropriate OCE Division(s). We will do our best to evaluate the proposed request in a timely manner or elevate any issues as needed, with a goal of responding to your request as promptly as possible and minimizing any undue delay.

Also please give OECA HQ a heads up on any information requests where there is significant public, press, or elected official interest.

Please contact me if you have any questions. Thanks.

cc: Tom Mariani, DOJ/ENRD/EES

Attachments:

OECA's Office of Compliance, "Interim Guidance on Required Reporting of Compliance Monitoring Information Requests in ICIS" (May 15, 2017)

Memorandum from OECA's Director of Office of Regulatory Enforcement, "Enhancing the Effectiveness of Information Requests in Regulatory Enforcement Matters" (July 3, 2001)

Senator WHITEHOUSE. What is your intention regarding that headquarters review stymying of what had always been the prerogative of the different regional agencies in getting information about potential environmental violations?

Mr. WHEELER. Senator, I haven't seen that memo. Is there a date?

Senator WHITEHOUSE. This memo was dated May 31.

Mr. WHEELER. Of this year or last year?

Senator WHITEHOUSE. Of 2017. So it has been in place for a while. Obviously, if you have to run the ability to even ask information requests through headquarters, that gives headquarters the chance to either just create massive institutional delay or even put the kibosh on an investigation from its very beginning, and that doesn't seem like the right role for headquarters.

Mr. WHEELER. I was not aware of that memo. I would point out, though, that we did not have a Senate confirmed person and head of OECA until December of last year. I believe that is the longest time that the Agency had ever gone without a Senate confirmed enforcement person. I think the numbers have gone up significantly since Susan Bodine took over the office, and I think the program itself has improved quite a bit.

Senator WHITEHOUSE. Well, I would like to ask you to get back to me on whether this memo is still in place.

Additionally, one of the problems that bedeviled people trying to get information out of EPA was that FOIA requests were customarily provided extremely slowly, and often only after litigation to force the issue; and Members of Congress, myself included, were told we will get you the information you ask for when we get around to it through the FOIA process.

I don't think either of those is good practice for a public agency. Could you let me know what you are doing with respect to FOIA compliance and with respect to Committee requests for information?

Mr. WHEELER. Absolutely. First of all, on FOIA, I know at the beginning of this Administration we had a 700 FOIA case backlog, some cases going back to 2008. We have cleared up the entire backlog.

I would also just point out, for the Administrator's Office at EPA, we saw a 415 percent increase in the number of FOIA requests. What we are doing is we consolidated the FOIA program into one office under our General Counsel's Office, and we are in the process of hiring additional FOIA people.

On the requests to the Committee, as Senator Carper could tell you, when I worked here on staff, I worked very hard to make sure that the minority received information from the Agency, and I will continue to do that as the Acting Administrator at EPA. I know that we have responded to 54 of 67 requests from the minority members of this Committee over the last year and a half.

Senator WHITEHOUSE. Thank you. I will send you a list of the ones that remain outstanding, and you can plow through those as well.

Let me just close by saying that I know you have worked very closely with industry for a long time, and I hope that you will give your very serious and earnest consideration to the concerns of peo-

ple like me from coastal States. We are seeing climate change driven sea level rise that is going to require us to redraw the map of my damn State. If that is not something to make a Senator serious about protecting it, I don't know what is.

So, I hope that in this position you will take into account not only the concerns of industry and the concerns of the square States in the middle of the country that don't have coasts, but those of us who are looking at actually having to redraw the maps because of what is happening.

Thanks very much.

Mr. WHEELER. Thank you, Senator.

Senator BARRASSO [presiding]. Thank you, Senator Whitehouse. Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman.

Mr. Wheeler, first of all, welcome to the Committee; it is good to see you once again, sir.

Mr. WHEELER. Thank you.

Senator ROUNDS. I appreciate your interest in your opening statement regarding certainty and the desire to move forward with certainty and transparency. I do think what Senator Ernst was trying to get at with regard to the Renewable Fuel Standard and the small refinery limitation, or at least an exemption for them, and how those two fit together, I would like to explore that with you a little bit. Because it is critical that the Renewable Fuel Standard remain in effect and that it be honored and that it be something that producers in the central part of the country can count on. They have invested billions of dollars in creating an ethanol industry, and one that they had expected to be in until at least the year 2022.

Now, if we read this correctly, there clearly was the intent of Congress that there be, for traditional ethanol production, a 15 billion gallon per year allowance. We also understand that within that same legislation that there was an allowance that you could make exceptions for hardship for small refineries. There was nothing that we can find that indicates that that would limit or reduce the 15 billion gallon minimum for traditional ethanol production.

Can you share with me where you would come up with or where there would be logic in taking or in reducing the Renewable Fuel Standard from the 15 billion to follow what was already included in the original law? In other words, when we wrote the law, when Congress wrote the law, they clearly understood that 15 billion was there and made clear. They also understood that we would take into account that small refineries may have a hardship. There was nothing that indicated that that 15 billion would be reduced.

Can you share with me a little bit your thought process on why you would not continue to push and to reallocate for the 15 billion gallons?

Mr. WHEELER. Well, as one of the former congressional staffers who helped write that section of the law, I wish we had spent a little bit more time on some of the details of it now that I am helping to implement it. I could start by saying that we are working to provide more transparency around the small refinery program, the exemption program.

We are creating a dashboard where we will publicize all the information about when we grant a waiver and the circumstances around the waiver. We have to balance that with the confidential business information of the impacted companies, but we are working to try to be more transparent on that side of the program, and we are looking to see what we can do as far as making up the difference when we have to grant a waiver from the 15 billion gallons.

But it is not a clear cut——

Senator ROUNDS. If I could, I don't think, and I don't find any place where it says it is a waiver from the 15 billion. I think it says an individual refinery may get from their responsibility, but that doesn't absolve us from meeting the 15 billion gallon limit.

Mr. WHEELER. I agree. But then you have the problem, though, that the waivers are being requested and granted after the numbers have already been set, and we are talking about whether we can go back retroactively to change the numbers and change the compliance numbers for the other people in the industry.

Senator ROUNDS. Well, I like the fact that you are looking at transparency within this process, and in fact, I think you are moving in the right direction. I actually sent a letter to your predecessor, dated April 13th of this year, requesting that the EPA provide more information on the factors that go into the granting of small refinery exemptions.

Mr. Chairman, I would ask unanimous consent that the copy of the letter be entered into the record.

Senator BARRASSO. Without objection.

[The referenced information follows:]

MIKE ROUNDS
U.S. SENATOR
SOUTH DAKOTA
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United States Senate
WASHINGTON, DC 20510

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SMALL BUSINESS AND
ENTREPRENEURSHIP
VETERANS' AFFAIRS

April 13, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., SE
Washington, DC 20460

Dear Administrator Pruitt,

I am writing to reiterate my strong support for the Renewable Fuel Standard. I appreciate the time your staff has taken to discuss this issue with me and I would like to request additional information regarding the unusually high number of small refinery waivers issued in 2016 and 2017.

Corn ethanol production is a vital component of the South Dakota economy. The corn ethanol industry supports thousands of jobs in South Dakota and contributes a significant amount of revenue to South Dakota communities. It is essential that we be provided with comprehensive information that allows us to have a full understanding of the waiver process and the impact these waivers will have on the agricultural economy of South Dakota.

Section 211(o)(7) of the Clean Air Act allows the Administrator of the Environmental Protection Agency (EPA) to issue a waiver to small refineries that process less than 75,000 barrels per day of crude oil.¹ These waivers are to be limited to refineries for which RFS compliance creates a "disproportionate economic hardship" and must be issued in consultation with the Secretaries of Energy and Agriculture.²

It has been reported that the EPA issued approximately 20 waivers exempting refineries from RFS compliance in 2016 and at least 25 for 2017 compliance.³ This large number of waivers has the potential to reduce domestic ethanol demand by billions of gallons, reducing the mandated 15 billion gallons of ethanol required to be blended in liquid fuels and hurting American farmers and American agriculture.

At a Senate Agriculture Appropriations Subcommittee hearing on April 11, 2018, Secretary of Agriculture Sonny Perdue expressed his concern that reducing the mandated blending requirement of 15 billion gallons creates "demand destruction" I am concerned that this

¹ <https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-standard-exemptions-small-refineries>

² <https://www.epa.gov/renewable-fuel-standard-program/requests-volume-requirement-waiver-under-renewable-fuel-standard>

³ <https://www.houstonchronicle.com/business/article/With-flood-of-EPA-waivers-refineries-find-way-12805971.php>

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“destruction” will be particularly felt by South Dakota farmers and ethanol producers who produce 7 percent of our nation’s ethanol.

Additionally, impacts from potential Chinese trade retaliation have yet to be realized. Any potential implications from trading conflicts with China will greatly impact American farmers. This, combined with the decrease in corn ethanol demand created by the issuance of these waivers will be tremendously costly and detrimental to American farmers, particularly those in South Dakota, who produced an estimated 788 million bushels of corn in 2017.

While I am pleased to hear the president express his support for the sale of E15 year-round, and I strongly encourage you to consider granting an RVP waiver to allow for increased sales of ethanol, I remain extremely concerned about the quantity of corn ethanol being eliminated from the U.S. market as a result of the large number of waivers issued.

I am writing to request information regarding the small refinery waivers granted in 2016 and 2017. Specifically, I would like to know, to the greatest extent possible:

- How many waivers have been granted waiving RFS compliance for 2016 and 2017?
- How many gallons of corn ethanol are displaced as a result of these waivers?
- What factors does the EPA consider when deciding whether to grant a waiver?
- What action does the EPA plan to take to make certain that despite these waivers, the demand for corn ethanol remains at the statutorily required level of 15 billion gallons per year?

I appreciate your attention to this matter and look forward to your response.

Sincerely,


M. Michael Rounds
United States Senator

Senator ROUNDS. I have yet to receive a substantive response to the letter, as requested, and this is an issue which is of serious consequence to my constituents in South Dakota and throughout the upper Midwest.

Would you commit to reviewing this request and responding to it in a substantive manner?

Mr. WHEELER. Yes, Senator, I will do that.

Senator ROUNDS. I understand that information that is designated as confidential business information has reportedly been a factor in granting small refinery exemptions, but there must be aspects of the EPA's decisionmaking process that do not strictly fall under this definition, and I just hope that you would continue—in an open and transparent process—to share with us the process that you are using in granting these.

Mr. WHEELER. Yes.

Senator ROUNDS. The other piece of this, sir, the RVP across the United States, as the President has indicated his interest in doing it, I would hope that we would expedite that process so that we can actually start marketing this product across the United States year round. And if that happens, I think a lot of the issues surrounding meeting that RFP would be handled, because with those markets available year round, it means people would actually buy the equipment, have the equipment available if they could use it throughout the year. Those pumps are expensive, and they don't want to use it if the EPA is going to come in and say you can use it 6 months out of the year, but not year round.

Would you commit to trying to expedite that part of this process to see if we can't get this behind us and help this industry to succeed?

Mr. WHEELER. Senator, as I am sure you know, that was part of a broader package of a deal trying to address concerns of the oil refining industry, along with the concerns of the ethanol producers, and I am looking actively to try to figure out how we go forward—

Senator ROUNDS. I appreciate that.

Mr. Chairman, I know my time has passed, but you have taken care of the small refineries. What about the small farmers? What about the folks that are producing on a year to year basis enough to get buy in a time in which we have trade issues in front of us, at a time in which they expected that an RFP would be honored by the Federal Government that we made several years ago?

You have taken care of the small refineries, but you haven't taken care of the small farmers. I think we should look at that.

Mr. WHEELER. The RVO number for 2019 is, I believe, 500 million gallons more than what it was the previous year. We also added the sorghum pathway to help farmers in finding another biofuel feedstock for the RFS program.

We are looking very actively to see what we can do to provide more not just flexibility in the program, but more assistance to the agricultural community.

Senator ROUNDS. Look forward to working with you, sir.

Mr. WHEELER. Thank you.

Senator ROUNDS. Thank you.

Senator BARRASSO. Thank you, Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman.

Senator BARRASSO. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman.

Mr. Wheeler, welcome.

Mr. WHEELER. Thank you, Senator.

Senator VAN HOLLEN. I had a question along the lines that Senator Carper asked you. He asked you about the Delaware filing under the Good Neighbor Petition provisions of the Clean Air Act. Maryland also filed a petition back in November 2016. EPA did not respond to it until just a few months ago, at which time they said they proposed to deny the petition.

This is an issue that has united all Marylanders, Republicans and Democrats alike. All of our members of the congressional delegation sent a letter to EPA asking EPA to take another look at this. Governor Hogan, a Republican Governor, has asked the same thing.

So, the first ask I would have is the same that Senator Carper made of you. Would you commit to meet with our Maryland Department of Environment Secretary, Ben Grumbles, to go over Maryland's position on the Good Neighbor Petition?

Mr. WHEELER. I would be happy to meet with Mr. Grumbles. I have known him for years and worked with him briefly.

Senator VAN HOLLEN. I appreciate it.

The letter we got back from EPA said that there was not enough information. I think Ben Grumbles, if you know him, is very diligent. I looked at it; he provided a lot of information. And that it was too costly, even though what we are asking for is plants in these other States to just apply already existing technology.

Do you have any details on why EPA proposed to deny the Maryland petition?

Mr. WHEELER. I don't, and I have not looked at the Maryland petition in the 4 weeks that I have been Acting Administrator.

Senator VAN HOLLEN. I understand. I appreciate your willingness to do that and meet with Secretary Grumbles. I think it is important because it is simply unfair, and the Clean Air Act envisioned this, its amendments envisioned this, that some States are doing their job to clean up their air, but their air gets polluted by States that are not doing their job. So, I hope we can resolve this issue.

I think you live in the Chesapeake Bay Watershed in Virginia, is that right?

Mr. WHEELER. I do, Senator, yes.

Senator VAN HOLLEN. The Bay agreements over a long period of time have been one of the great environmental success stories. You always feel like you are running in place with the Bay because there is such a drainage basin from so many States and so much development. But the good news is, as a result of these agreements, and most recently the 2014 agreement, we appear to be making progress. Long way to go, but progress.

The most recent agreement included a provision with respect to the TMDL, total maximum daily load. Can you commit that you, as the Acting Head of the EPA, will continue to enforce EPA's role within that agreement?

Mr. WHEELER. Absolutely. I also want to point out it is good news on the Bay. We have a lot of work to do, but just over the last 10 years the seagrass in the Bay have gone from 34,000 acres up to 100,000 acres, and that is one of the first indicators of a healthy bay. So, I think we have made a lot of progress, and we continue to make progress.

Senator VAN HOLLEN. I appreciate that.

In the House, our House colleagues attached a provision to the environmental appropriations bill, a rider to eliminate EPA's enforcement authority under that agreement. I am assuming that you would oppose that limitation on your enforcement authority, is that right?

Mr. WHEELER. We would certainly like to keep all the enforcement authorities that we can, yes.

Senator VAN HOLLEN. Thank you.

Now, just last week EPA released a 2016–2017 milestone at mid-point progress report on the Bay, and again, as you indicated, I indicated, there has been some progress. It did note that the State of Pennsylvania is not meeting its targets for agriculture and urban-suburban runoff. Actually, as part of the Farm Bill I have worked on a bipartisan basis to increase the funds available under the Regional Conservation Partnership Program, so hoping that will go forward as part of the ag bill.

But what actions can EPA take? As you know, a lot of the pollution in the Bay does come down the Susquehanna River, major tributary to the Bay. This has been an ongoing challenge. What can EPA do to help all of us improve Pennsylvania's performance?

Mr. WHEELER. We are trying to work more cooperatively with all the States in the Chesapeake Bay region. I mentioned to Senator Cardin that in my first week as a Deputy Administrator I attended the Chesapeake Bay Commission, and next week I will be attending the Chesapeake Bay Leadership Council meeting in Baltimore, and that will be my first meeting on the Chesapeake Bay since I have assumed the duties of Acting Administrator.

I need to look a little bit more into what we can do to work with Pennsylvania, but we are trying to work cooperatively with all the States in the Chesapeake Bay.

Senator VAN HOLLEN. No, I appreciate that, and EPA has played a vital role, so I appreciate your commitment there.

I will say, as your own EPA report indicated, the pollution coming down the Susquehanna River from Pennsylvania remains a major challenge, so we want to work cooperatively with Pennsylvania as well, but we really do need your help. So, thank you.

Mr. WHEELER. Thank you, Senator.

Senator BARRASSO. Senator Capito.

Senator CAPITO. Thank you, Mr. Chairman.

Thank you, Mr. Wheeler, for being here with us today. I would first like to take a moment to express my appreciation for your emphasis on improving transparency and increasing good governance practices at the EPA. From what I have heard in the testimony thus far, very cooperative spirit on both sides of the aisle to help not just with our national issues, but with our State issues as well, and certainly appreciate that.

As you well know, West Virginia bore the brunt of the last 8 years of bureaucratic red tape coming out of Washington, a lot of it from the EPA. We are climbing out of that. Our unemployment rate is near its lowest since 2008; our growth rate is tracking the national average, and maybe in some has even exceeded the national rate, which is great. And this is in anticipation of things that are going on now, the regulatory relief that you have been a part of at the EPA, the tax reform and infrastructure investments.

So, we are encouraged by what we see, but we still have a labor participation rate that is lower, and we need to use our skilled work force deployed in responsible and innovative utilization of our natural resources, which we have in abundance in my State.

My first question is on the Clean Power Plan. As you know, I think you know, I am sure you know, that Appalachia was essentially ignored when the Clean Power Plan first rule was proposed. We couldn't get the EPA to come. Subsequently, this EPA held its first hearing in West Virginia and heard opinions from all sides about the Clean Power Plan.

I have talked about our growing economy in West Virginia and being led by our energy sector. I would like to know from you how do you plan to address the failings that were in the previous Clean Power Plan? Where are you on this, and do you expect your rule will return to an inside the fence approach and use technologies that are actually commercially available? That was another sticking point, requiring technologies that were never commercially viable and touting them as being a panacea, I think, which we knew did not really exist.

Your comments on the Clean Power Plan.

Mr. WHEELER. Thank you, Senator. On my first day as Acting Administrator, we sent a new proposal to OMB for interagency review for replacement for the Clean Power Plan. The difference, I would say, between this approach and the approach of the Obama administration is that we are following the four corners of the Clean Air Act in what we are proposing.

The 2015 proposal had the dubious distinction of being the first environmental regulation to have a stay issue by the Supreme Court, and I believe that was done because it was outside of what the law directed us to do. So, we are going to follow the law, and hopefully the proposal will be coming out for public comment sometime in the next 30 to 60 days.

Senator CAPITO. OK. Thank you.

I want to talk about chemical safety thresholds. I would encourage a particular emphasis on the PFOS. This is a chemical that has been found in waters particularly in the Parkersburg and Martinsburg area of our State. I had previously urged transparency with the former Administrator when it came to release of the toxicological report that came out that was very long and very complicated, so I can't really interpret that for you. I am hoping that you will do that as well.

So, would you agree that the PFOS issue is a serious concern and is a high priority within the EPA?

Mr. WHEELER. Absolutely, it is a serious concern, and it is a high priority. It was actually one of the first briefings that I requested from the career staff at the Agency when I first started as the Dep-

uty Administrator, and it remains a priority for me and for the Agency as we move forward.

Senator CAPITO. Well, thank you for that. I think that was obviously the intent of the law that we all worked on, bipartisan, but I am concerned that we still don't have a leveling of the appropriate levels both in safety levels either in the soil or in the water, and it is causing a lot of concern for me as a representative of our State.

Let me just talk a little bit about coal, because we know coal has come back. It has come back to a reasonable level. Could you, just in the brief time we have left, say from your perspective—I know you have a lot of experience with coal—how do you see this in terms of a more robust coal industry and the environment, and where you are planning to move with that?

That is a big question.

Mr. WHEELER. It is. Let me address it this way. I have always believed in an all of the above on energy sources, and I don't believe that it is the EPA's job to pick winners or losers. It is our responsibility to enact the laws that Congress passes. Under my leadership, we will not pick winners and losers between the different fuel sources. That is something that the market will have to decide. But I think it is very important that we don't enact regulations that penalize one energy source over another or emphasize one energy source over another.

Last week, I visited a solar panel facility in Massachusetts. For the first time, 2 weeks ago; I had never been to the Marcellus Shale to see the drilling that is going on there.

We are trying very hard to be straight down the road and not pick winners or losers on energy sources. I don't believe that is the EPA's responsibility.

Senator CAPITO. Thank you very much.

Senator BARRASSO. Thank you, Senator Capito.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman.

Mr. Wheeler, since 2010 the new fuel economy emission standards have saved consumers more than \$63 billion at the pump, kept 540 million barrels of oil in the ground, reduced carbon pollution by 250 metric tons. Over the lifetime of the current fuel economy standards, consumers will save \$1 trillion on gasoline and will keep 12 billion barrels of oil in the ground.

That is the simple formula for fuel economy, you save consumers money, and you save the planet at the same time, and that is why big oil is attacking these standards. The oil industry is scared to death that the billions of barrels of reserves they are currently claiming on their balance sheets to the Securities and Exchange Commission will end up as so called stranded assets. They are scared to death that \$1 trillion will stay stranded in the pockets of consumers, and that is why the Trump administration is moving to roll back these standards.

There has been a lot of news recently about a rift between President Trump and the Koch brothers. President Trump and the Koch brothers might disagree these days on politics, but they are always in agreement on petroleum, and that is why this rollback of fuel economy standards is really all about petroleum. It is oil above all.

According to a leaked draft of the proposed rule, the Trump roll-back of fuel economy standards, the No. 1 option that the Trump administration is considering is freezing the standards at 2020 level, that we don't increase the fuel economy standards after 2020.

Mr. Wheeler, yes or no, do you agree that freezing the fuel economy emissions standards at 2020 levels would lead to more oil being consumed than if we kept the standards at their current trajectory?

Mr. WHEELER. Senator, I am not sure on that, and I want to be on the record as saying that I have not talked to anybody in the oil industry or received any information from them.

Senator MARKEY. I didn't ask you that question. I asked you would more oil be consumed if we froze the standards at 2020. That is my question, yes or no.

Mr. WHEELER. I believe the analysis shows that more oil would be consumed.

Senator MARKEY. That is correct. Even the Trump administration—

Mr. WHEELER. But it also would save 12,000 lives at \$500 billion.

Senator MARKEY. Even the Trump administration's draft report acknowledges we will consume 500,000 more barrels of oil per day if we freeze these standards.

And by the way, by 2030 we back out under existing standards, if they continued, 2.5 million barrels of oil per day being imported into the United States from Saudi Arabia, from other OPEC countries. That is the number, 2.5 million barrels of oil a day.

Yes or no, Mr. Wheeler, do you agree that freezing the standards at 2020 levels would mean consumers would pay more to fill up their gas tanks than under the current standards?

Mr. WHEELER. That, I do not know. I know that we have \$500 billion in savings to the American consumers under the proposal.

Senator MARKEY. Well, according to the Union of Concerned Scientists, freezing the standards would cost American drivers an additional \$20 billion alone in 2025 due to higher spending on gasoline. That is money that is transferred right out of the pockets of consumers into the big oil coffers.

Yes or no, do you agree that a freeze on increasing the fuel economy standards would lead to more climate pollution than if we maintained the current standards?

Mr. WHEELER. I believe our data shows it would be negligible between the Obama proposal and our proposal.

Senator MARKEY. Well, you are wrong. Freezing the standards would mean an additional 2.2 billion metric tons of global warming pollution by 2040, equal to 43 coal fired power plants.

There is a famous line, Mr. Wheeler, in the movie "All the President's Men": follow the money. When you look at the \$1 trillion that big oil will never receive from American consumers and the 12 billion barrels of oil that they will never produce under the current standards, it becomes pretty clear why big oil would want to attack these standards, and all the auto industry has to do is sit back and drive the getaway car.

So, let me just ask you one final question, Mr. Wheeler. Administrator Pruitt committed to release the EPA scientific report on the

carcinogen formaldehyde, but never did so. Will you commit to releasing this report?

Mr. WHEELER. Are you referring to the IRIS report on formaldehyde?

Senator MARKEY. Yes.

Mr. WHEELER. I have not been briefed specifically on the IRIS formaldehyde report, but I have sat down with our IRIS staff, and what I am trying to do is to provide more certainty to that process to make sure we know how the different assessments will be used in the regulatory programs. It is my understanding that we still have a number of steps to complete on the formaldehyde assessment.

Senator MARKEY. When will you release it?

Mr. WHEELER. The question that I have to our IRIS staff is what is the purpose of the assessment at this point and whether or not the data that they have used in the assessment is still current, because I know they started that before 2010.

Senator MARKEY. Will you commit to releasing that report?

Mr. WHEELER. I am sure we will release it, but I need to make sure that the science in the report is still accurate. What I have asked not just for that report, but for everything that we are doing on the IRIS program, to make sure that we know the purpose of the assessment, because we have a lot of chemicals that we should and could be assessing under the IRIS program, and I want to make sure that they are being used in a regulatory process, because we have other chemicals that need to be assessed as well. So that is one of the questions that I have asked our program staff.

Senator MARKEY. Well, Pruitt committed to releasing it, and I hope that you put it at the top of your list. I expect you to and get it released so that the public can understand what those dangers are. Thank you.

Mr. WHEELER. And Senator, on the different reports that you mentioned under the CAFE, we should be going out in the Federal Register in the next day or two with the CAFE proposal, and I would hope that all those organizations will submit those reports for the record.

Senator BARRASSO. We are now into the second vote and about halfway through. I wanted to get to the additional.

Thank you so much for your comments.

Senator Fischer.

Senator FISCHER. Thank you, Mr. Chairman.

And thank you, Administrator Wheeler, for being here today.

Mr. WHEELER. Thank you.

Senator FISCHER. Many of my colleagues have already discussed this issue, but I would also like to visit with you about small refinery exemptions to the RFS.

As you know, the law allows refineries that produce 75,000 barrels or less per day to seek an exemption from the RFS for the reason of disproportionate economic hardship. The EPA, in consultation with Department of Energy, must consider the findings from a 2011 DOE study and "other economic factors" when analyzing these requests.

So, this disproportionate economic hardship is the critical factor in determining whether a small refinery is awarded an exemption.

How is that calculated? That is what is of great interest to small refineries, because it could decide whether they have to comply with the RFS or whether they get a free pass.

My constituents in Nebraska, and others for whom the RFS is a very important item, would be interested in how you interpret that process for purposes of making sure that the law is being upheld; and for Congress, who wrote the law, understanding how you calculate disproportionate economic hardship is vital for purposes of making sure that you are carrying out that law as we intended. So, for these reasons, I would like to discuss how you are doing that analysis.

It is my understanding that the law does not define disproportionate economic hardship. It is also my understanding that EPA regulations do not define disproportionate economic hardship. By its definition, disproportionate means you are comparing the impact on the petitioner to the impact on one or more others. Is that correct?

Mr. WHEELER. I believe that is correct, Senator.

If I could say, on the small refinery process, we work closely with Department of Energy. They do the initial analysis, and then we work with them on providing additional analysis as well.

What I have committed to do, and what we are going to do is provide more transparency on how we make these decisions. We are in the process of developing a dashboard so we can put all the information out publicly so people know when we are issuing a small refinery waiver and the circumstances around that. We have to make sure that we take into account any confidential business information of the company applying for the small business refinery exemption, but we want to try to be as transparent as we can and put all that information, including our process, out for the public to see.

Senator FISCHER. Just to confirm, are you saying that the EPA compares the high cost of compliance relative to the entire refinery industry? So, all you basically have to prove, Mr. Administrator, is that you are a small refinery and produce less than 75,000 barrels a day, and that is your ticket in the door?

Mr. WHEELER. Senator, if I could respond back to you in writing on that, because I want to be very careful because this issue is being looked at very carefully—

Senator FISCHER. It is.

Mr. WHEELER [continuing]. Not only by us, by everybody else, and I want to make sure that I am giving you the correct information. If I could respond back to you in writing, I would appreciate that.

Senator FISCHER. I would appreciate it. Thank you, sir.

What about the disproportionate economic hardship? The court, in 2017, said the EPA can't go so far as to require that a refinery be at risk of going out of business to exempt them from the RFS. But I believe it is equally unacceptable for the EPA to merely exempt a refinery because they fit the definition of a small refinery. And I would think you would agree that there is space between those two options. Would you?

Mr. WHEELER. I would agree there is space between those two options. I think just because a company is a small refinery does not

mean it should be entitled to a small refinery exemption; there are other market and business concerns to go into that analysis.

Senator FISCHER. When the Agency awarded those 48 small refinery waivers retroactively for 2016 and 2017, I think that it effectively established a de facto RIN cap. Do you agree with that?

Mr. WHEELER. A de facto RIN cap? We take that into account, we take into account the available RINs as we move forward in setting the RVO numbers for the next year, so I am not sure that I would say it was a de facto RIN cap, because we do look at the RIN numbers available before we set the next RVO, and try to factor that into our analysis.

Senator FISCHER. OK. If I could get you questions on this pretty complex issue, I would appreciate answers in a timely manner.

Mr. WHEELER. Absolutely, Senator.

Senator FISCHER. Thank you, Administrator.

Mr. WHEELER. Thank you.

Senator FISCHER. Thank you, Mr. Chair.

Senator INHOFE [presiding]. Having just voted, I assume that we have gone all the way through and that you have a request, Senator Carper, for one last question.

Senator CARPER. Yes, I do, please.

Senator Duckworth has not asked her first round. She was here, but other people came in ahead of her, so she is going to try to get back. Hopefully she does, and if she does, I will yield to her. But thanks, Mr. Chairman.

I want to follow up, if I could, Mr. Wheeler, on your previous answer on cross-State pollution. In your answer, you may recall you stated that most areas will be in attainment for ozone in the early 2020s. So, with that having been said, here is my question. EPA has not modeled the effects of all of its planned clean air rollbacks on cross-State ozone pollution. Given that, can EPA be certain that Delaware, Maryland, New Jersey, and all these other States on the East Coast will be in attainment? How can EPA be certain that all of us are going to be in attainment in 2023, as EPA has claimed it would be, because you have not modeled the effects of all its planned Clean Air Act rollbacks on cross-State ozone pollution? It seems like we are getting ahead of the horse.

Mr. WHEELER. I can't predict with certainty on that, but what I am told by the career staff at the Agency in the Air Office is that our analysis shows that most areas of the country will be able to reach attainment in the early 2020s. There are, of course, factors that could change between now and then, but on the current pathway that we are with the emissions that we forecast in the different States in the areas of the country, we anticipate that most areas of the country will be in attainment in the early 2020s.

Senator CARPER. Maybe most areas, but a bunch of the areas that are not in attainment now, again, it just seems counterintuitive that EPA has not modeled the effects of all of its planned clean air rollbacks on cross-State pollution; yet EPA feels like Delaware and other States are going to be in attainment in 2023. It just doesn't add up. We will be following up with questions for the record, and maybe we can get some clarification on this. Thank you.

Mr. WHEELER. Thank you, Senator.

Senator INHOFE. Thank you, Senator Carper.

Senator Whitehouse, did you want to?

Senator WHITEHOUSE. Thank you, I would like to, Mr. Chairman.

I wanted to follow up with Administrator Wheeler on something that he said in response to a question to another Senator, and it had to do, Mr. Wheeler, with not picking winners and losers in the energy industry, and that you would treat all energy sources equally.

If you are presented with a polluting energy source on the one hand and a non-polluting energy source on the other, how do you treat them equally, when it is EPA's duty to protect against pollution?

Mr. WHEELER. Senator, if one energy source has emissions of a criteria pollutant or any of the other pollutants that we regulate, we would, of course, regulate the pollutants for that industry. I am not suggesting that every single environmental law would apply to every single industry, and we would treat it across the board. The coal combustion residual would only apply to coal fired power plants; we wouldn't apply something like that, of course, to solar or wind. My point is that we shouldn't be enacting regulations that favor one energy source over the other. We will implement all of the laws passed by Congress.

Senator WHITEHOUSE. How would a regulation that protected against pollution not advantage a non-polluting energy source over a polluting energy source?

Mr. WHEELER. I believe some of the criticisms of the Obama Clean Power Plan, for example, is that it gave preferential treatment to some energy sources on the way that they calculated emissions. My point in saying that is that it is not the EPA's role. We are trying to be very even handed and not pick winners and losers between the different energy sources and equally promote all of them at the same time.

Senator WHITEHOUSE. I get that, but I just want to make sure that your view of what is preferential among energy sources isn't driven by whether or not they are polluters. Because if you are not going to prefer, in the sense of putting regulatory protections up against polluting versus non-polluting sources, we have a problem on our hands.

Mr. WHEELER. Senator, we are regulating sources that pollute, that release, that have emissions.

Senator WHITEHOUSE. Great. So, if a polluting source has to bear a regulatory burden to protect against its pollution, that is not what you mean by picking winners and losers.

Mr. WHEELER. That is not what I mean, no.

Senator WHITEHOUSE. Thank you.

Senator INHOFE. Thank you, Senator Whitehouse.

We were going to come to an abrupt stop after this vote, but we are going to make an exception because Senator Duckworth wants to be heard, but she will be the last one to ask questions, and then we will close the meeting.

Senator Duckworth.

Senator DUCKWORTH. Thank you, Mr. Chairman. You are very generous and quite a gentleman.

Senator INHOFE. Well, thank you. That is because you cosponsored my aviation bill.

[Laughter.]

Senator DUCKWORTH. Exactly. Exactly. And I just talked to the airline pilots this morning, and they are big fans of yours.

Mr. Wheeler, although we don't see eye to eye on most environmental issues, I believe that you are making a good faith effort to reverse the course at EPA and operate in a transparent manner. For example, I support your recent memo calling on your colleagues to be open and accessible, and committing to leading by example on open Government efforts, so I thank you for that. I think this is a critical first step toward restoring the public's trust in the EPA.

Acting Administrator Wheeler, as you know, Congress provided you with an incredibly broad authority under the Safe Drinking Water Act to hire up to 30 individuals without regard to civil service laws. For years, under Republican and Democratic administrations, Congress has trusted EPA Administrators to responsibly exercise this special hiring authority; however, your predecessor violated this trust in using the authority to give personal aides lavish pay raises after the White House denied such requests.

To make sure you and future Administrators use this special hiring authority in an ethical and transparent manner, Ranking Member Carper and I introduced the EPA Special Hiring Authority Transparency Act. Our bill simply requires that EPA report to Congress whenever it makes an appointment.

To restore confidence in the use of this authority, will you commit to supporting our legislation that will improve transparency and make sure this Committee is notified in regard to who is being appointed under the special hiring authority and why?

Mr. WHEELER. Senator, I would be happy to work with you on your legislation, and I would be happy to provide a list of the people that we have hired under that authority as well.

Senator DUCKWORTH. Thank you.

One area I believe we can work together on, in addition, is reducing lead exposure. Lead is a dangerous neurotoxin for vulnerable populations like young children, pregnant mothers, and the elderly. Exposure to lead can be life threatening.

Under your predecessor, an interagency task force on lead was convened; however, Congress has not been briefed on the work of this agency. It is unclear whether the Administration fully understands the urgency of this problem and whether they are genuinely compelled to address this issue.

Will you support reporting to Congress on the finding of this task force?

Mr. WHEELER. Yes, Senator, I will.

Senator DUCKWORTH. Thank you.

On a similar note, will you commit to releasing all the records on the Superfund Task Force?

Mr. WHEELER. I thought we had already done that, but I will certainly look into that and have to get back to you on that.

Senator DUCKWORTH. Thank you. I appreciate that.

Mr. WHEELER. That predated my time at the Agency.

Senator DUCKWORTH. OK, thank you.

And finally, before I close, I want to address a critical program, the bipartisan Renewable Fuel Standards program, the RFS, that has already been discussed at length in this hearing.

Mr. WHEELER. A few times.

Senator DUCKWORTH. A few times, yes. Well, we are all out there to support our farmers. I am alarmed by this Administration's efforts to undermine this program. Even Brett Kavanaugh, the nominee to serve on the Supreme Court, has sided with the oil industry in several RFS related cases. Mr. Kavanaugh went as far as to argue that the oil and food industries were palpably and negatively affected by EPA's allegedly illegal E15 waiver and had standing to directly challenge the E15 waiver in court.

As you discussed with my colleagues, Senator Ernst and Senator Rounds and Senator Fischer, EPA has been undermining the RFS on abusing the small refinery exemptions. We need to understand how EPA is making decisions on granting these exemptions. Will you promise to report to Congress on how these decisions are being made, provide public notice on these decisions, and bring greater transparency to this work?

Mr. WHEELER. Absolutely. In fact, we are developing a dashboard so that the whole public can see what we are doing on the issue and when and how we are granting the waivers. We have to be careful that there are confidential business information claims by some of the refiners when they apply for it, so we have to guard that, but we want to make sure that we release as much information as we can to be very transparent and let everybody know what we are doing and why we are doing it.

Senator DUCKWORTH. Thank you. I need to stress again that ethanol is an American grown, American produced product, as opposed to foreign oil that we have sent troops for a decade to fight over. I would rather be supporting American farmers growing American produce to put in American gas tanks.

I understand that the EPA may be constrained by law, as you have testified, and I look forward to working with my colleagues, Senators Rounds and Ernst, on a legislative fix, and I very much thank you for being here, and I certainly enjoyed our discussion, and I very much appreciate the return to transparency that you are pledging to bring to the EPA. Thank you.

Mr. WHEELER. Thank you, Senator. I appreciate that.

Senator INHOFE. Thank you, Senator Duckworth. I appreciate you being here very much.

I have two unanimous consent requests to get into the record. There will be no other questioners.

First of all, I would note that, last week, 21 Senators sent a letter to EPA opposing the reallocation of small refinery obligations to other refineries under the RFS, and I ask unanimous consent that this letter be made a part of the record.

Without objection, so ordered.

[The referenced information follows:]

United States Senate

WASHINGTON, DC 20510

July 26, 2018

Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Office of the Administrator, 1101A
Washington, DC 20460

Dear Acting Administrator Wheeler:

In recent weeks, media reports indicated that the Environmental Protection Agency (EPA) considered a proposal to retroactively reallocate the Renewable Fuel Standard (RFS) compliance obligations from small refineries, which have received hardship relief, to other refineries and importers. Thankfully, in the proposed rule setting renewable volume obligations for 2019 (the "2019 RVO"), EPA abandoned this ill-considered plan. However, given the requests from biofuel interests, we are writing this letter to state very clearly our strong opposition to any future resurrection of this proposed policy.

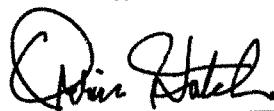
There is little doubt that retroactively reallocating obligations would only compound the problems with the RFS. Simply put, a retroactive reallocation of small refinery obligations to other obligated parties is illegal and fundamentally unfair, imposing a financial penalty on refineries that have otherwise been in compliance with the law. By so doing, retroactive reallocation violates the principles of due process and administrative law and is clearly not authorized under the Clean Air Act. Further, retroactive reallocation injects radical uncertainty into the market for compliance credits, hurting the U.S. refining base, its workers, and the communities they serve.

Retroactive reallocation is also inconsistent with sound energy policy. A robust domestic refining sector is a key element to national security, as administrations of both political parties have found. Refineries are a source of high-paying manufacturing jobs, thousands of which are placed at risk when RFS compliance obligations aren't reasonable and when compliance costs escalate. All of this is placed in harm's way if EPA retroactively reallocates the obligations of small refineries, which have received hardship relief. We urge EPA to maintain the policy articulated in the proposed 2019 RVO and not deviate from sound policy and the law by trying to fashion any form of retroactive reallocation. Any other direction undermines national security, threatens higher gasoline prices for U.S. consumers, and risks economic harm to fuel providers and the loss of manufacturing jobs.

Sincerely,



James M. Inhofe
United States Senator



Orrin G. Hatch
United States Senator

Michael B. Enzi

Michael B. Enzi
United States Senator

John Barrasso

John Barrasso, M.D.
United States Senator

James E. Risch

James E. Risch
United States Senator

John Boozman

John Boozman
United States Senator

Michael S. Lee

Michael S. Lee
United States Senator

Ted Cruz

Ted Cruz
United States Senator

Bill Cassidy, M.D.

Bill Cassidy, M.D.
United States Senator

Tom Cotton

Tom Cotton
United States Senator

David A. Perdue

David A. Perdue
United States Senator

Cindy Hyde-Smith

Cindy Hyde-Smith
United States Senator

Johnny Isakson

Johnny Isakson
United States Senator

Roger F. Wicker

Roger F. Wicker
United States Senator

Joe Manchin II

Joe Manchin II
United States Senator

Pat Toomey

Pat Toomey
United States Senator

Jeff Flake

Jeff Flake
United States Senator

Shelley Moore Capito

Shelley Moore Capito
United States Senator

James Lankford

James Lankford
United States Senator

Steve Daines

Steve Daines
United States Senator

John Kennedy

John Kennedy
United States Senator

Senator INHOFE. Second, I have a chart I think is important. I understand while I was down voting that something came up, some complaints were there in terms of responses, and I want to just compliment you and the EPA for the way you have done that.

The chart is just one example of the huge increase in correspondence EPA has seen over the last Administration. For the Administrator's office, it is over 400 percent increase in fiscal year 2017 over the previous two fiscal years. Again, it is just for the Administrator's office; it does not include other programs like air, water, land, general counsel, research and development, chemicals, and all that.

In total, the EPA has so far responded to 84 percent of the inquiries elected offices have sent in. That is Federal, State, and local. EPA has responded to 81 percent of the minority members' oversight letters, 65.5 percent of all their inquiries, and it is not done doing so. 23,430 pages of documents have been delivered to the minority members. I don't know whether minority has had time to read all of these; I suggest probably they haven't.

It doesn't sound like an agency that is ignoring anyone.

I want to commend you and get this on the record so that people are aware of the great job that we are doing with the EPA. All right?

Mr. WHEELER. Thank you, Senator.

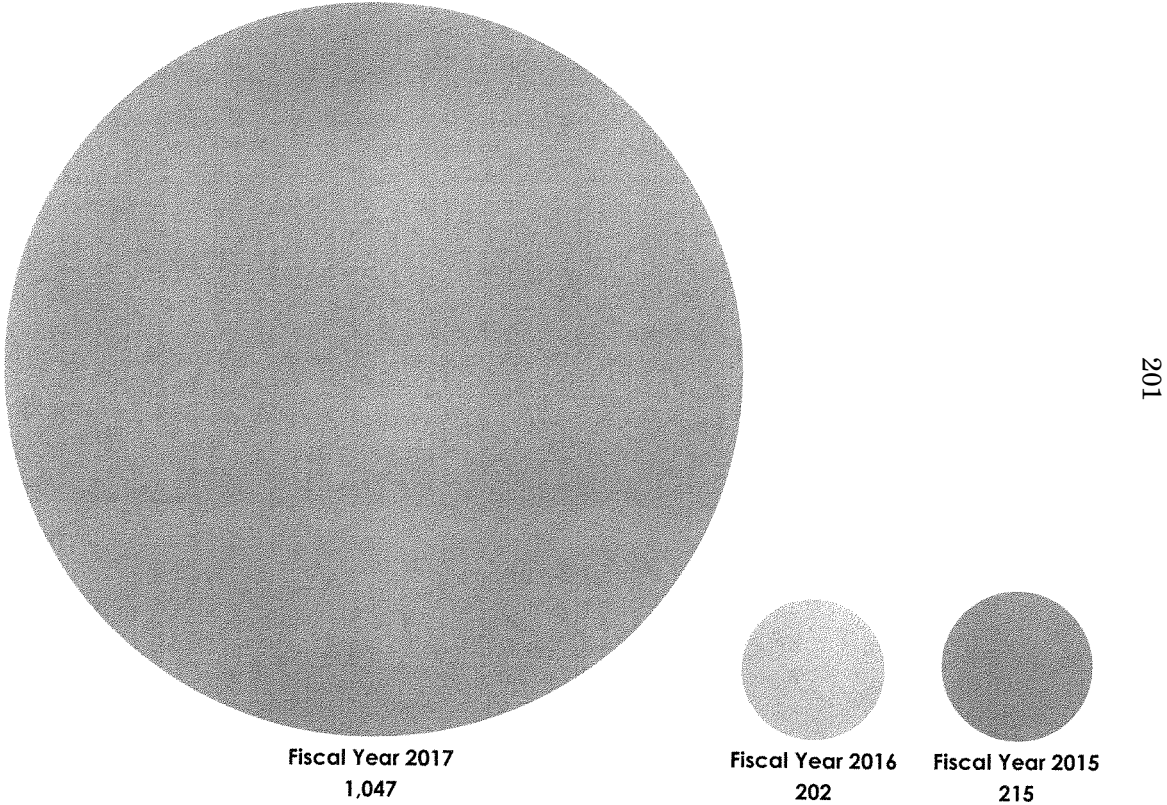
Senator INHOFE. You are very welcome.

[The referenced information follows:]

EPA Correspondence By the Numbers:

- This chart is just one example of the huge increase in correspondence EPA has seen over the last Administration.
- For the Administrator's Office, it is over a 400% increase in FY2017 over previous two fiscal years
- Again, this is just for the Administrator's office; it does not include the other program offices like air, water, land, general counsel, research and development, chemicals, etc.
- In total, EPA has so far responded to 84% of the inquiries elected offices have sent (federal, state, and local).
- EPA has responded to 81% of the minority members' oversight letters; 65.5% of all their inquiries; and it is not done doing so.
- 23,430 pages of documents have been delivered to the minority members of EPW.
- This does not sound like an agency that is ignoring anyone- it's a wonder they get any other work done.

AO Requests Received by Fiscal Year



Senator INHOFE. If there are no more questions for today, members may also submit follow up questions for the record. The hearing record will be open for 2 weeks.

I want to thank the witnesses for their time and testimony today, and we are adjourned.

[Whereupon, at 12:11 p.m. the Committee was adjourned.]

